



North Pender Island Local Trust Committee

Regular Meeting Agenda

Date: January 27, 2022

Time: 10:00 am

Location: Anglican Parish Hall

4703 Canal Road, RR#1, North Pender Island, BC

Public is encouraged to attend via zoom:

<https://islandstrust.bc.ca/event/north-pender-ltc-regular-meeting-january-27-2022/>

Pages

- | | | | |
|------|---|---------------------|---------|
| 1. | CALL TO ORDER | 10:00 AM - 10:00 AM | |
| 2. | APPROVAL OF AGENDA | 10:00 AM - 10:05 AM | |
| 3. | TRUSTEE REPORT | 10:05 AM - 10:15 AM | |
| 4. | CHAIR'S REPORT | 10:15 AM - 10:20 AM | |
| 5. | TOWN HALL AND QUESTIONS | 10:20 AM - 10:35 AM | |
| 6. | COMMUNITY INFORMATION MEETING | | |
| | None | | |
| 7. | PUBLIC HEARING | | |
| | None | | |
| 8. | MINUTES | 10:35 AM - 10:45 AM | |
| 8.1. | Local Trust Committee Minutes Dated December 4, 2021 (for Adoption) | | 4 - 11 |
| 8.2. | Section 26 Resolutions-without-meeting Report - None | | |
| 8.3. | Advisory Planning Commission Minutes - None | | |
| 9. | BUSINESS ARISING FROM THE MINUTES | | |
| 9.1. | Follow-up Action List Dated Jan 2022 | | 12 - 14 |
| 10. | DELEGATIONS | | |
| 11. | CORRESPONDENCE | | |

Correspondence received concerning current applications or projects is posted to the LTC webpage

12.	APPLICATIONS AND REFERRALS	10:45 AM - 12:00 PM	
12.1.	NP-SUB-2016.2 (Mill Bay Marine Group/Henshaw) – Request to release covenants – Staff Memo (attached)		15 - 110
12.2.	NP-DP-2021.7 (Brodie) – Staff Report (attached)		111 - 133
12.3.	NP-DP-2021.8 (Clarke) – Staff Report (attached)		134 - 181
12.4.	NP-TUP-2021.9 (Persello) – Staff Report (attached)		182 - 196
12.5.	Salt Spring Island Local Trust Committee Referral for Proposed Bylaw No. 521 (for response) (attached)		197 - 203
12.6.	Salt Spring Island Local Trust Committee Referral for Proposed Bylaw No. 526 (for response) (attached)		204 - 210
12.7.	South Pender Island Local Trust Committee Referral for Draft Bylaw No. 122 (for response) (attached)		211 - 217
12.8.	South Pender Island Local Trust Committee Referral for Proposed Bylaw No. 123 (for response) (attached)		218 - 226
13.	LOCAL TRUST COMMITTEE PROJECTS	12:00 PM - 12:10 PM	
13.1.	North Pender Island Local Trust Committee Fees Bylaw No. 226 (for consideration)		227 - 234
14.	REPORTS	12:10 PM - 12:20 PM	
14.1.	Work Program Report (attached)		
14.1.1.	<u>Top Priorities Report Dated Jan 2022</u>		235 - 235
14.1.2.	<u>Projects List Report Dated Jan 2022</u>		236 - 236
14.2.	Applications Report Dated Jan 2022 (attached)		237 - 243
14.3.	Trustee and Local Expense Report Dated Nov 2021 (attached)		244 - 244
14.4.	Adopted Policies and Standing Resolutions (attached)		245 - 249
14.5.	Local Trust Committee Webpage		
14.6.	Islands Trust Conservancy Report Dated November 2021		250 - 252
15.	NEW BUSINESS	12:20 PM - 1:20 PM	
15.1.	Shoreline Protection Model Bylaw Report - Briefing		253 - 305
15.2.	North Pender Island Local Trust Committee Meeting Procedure Bylaw No. 227 (for consideration)		306 - 313
15.3.	Sidney Island Referral Process - Staff Memo (attached)		314 - 315

15.4. North Pender Island Board of Variance - Discussion

15.5. Travel Trailer Enforcement - Staff Report (attached)

316 - 318

16. UPCOMING MEETINGS

1:20 PM - 1:25 PM

16.1. Special Electronic Community Information Meeting - February 5, 2022 at 10:00 am

16.2. Special Electronic Community Information Meeting - March 12, 2022 at 10:00 am (for consideration)

16.3. Next Regular Meeting Scheduled for February 24, 2022 at the Anglican Church Hall, Pender Island

16.4. North Pender LTC March 31, 2022 Meeting - Reschedule to March 24, 2022

17. TOWN HALL

1:25 PM - 1:40 PM

18. CLOSED MEETING (Distributed Under Separate Cover)

18.1. Motion to Close Meeting

That the meeting be closed to the public in accordance with the Community Charter, Part 4, Division 3 s. 90(1)(a)(d)(f) for the purpose of considering:

- *Adoption of In-Camera Meeting Minutes Dated June 24, 2021 and December 4, 2021*
- *Appointment of Agricultural APC Members*
- *Bylaw Enforcement*

AND that the recorder and staff attend the meeting.

18.2. Recall to Order

18.3. Rise and Report

19. ADJOURNMENT

1:40 PM - 1:40 PM



DRAFT

North Pender Island Local Trust Committee

Minutes of Regular Meeting

Date: December 4, 2021
Location: Anglican Parish Hall
4703 Canal Road, RR#1, North Pender Island, BC

Members Present: Laura Patrick, Chair
Benjamin McConchie, Local Trustee
Deb Morrison, Local Trustee

Staff Present: Kim Stockdill, Island Planner
Phil Testemale, Planner 2(via Zoom)
Shannon Brayford, Recorder

Public Present: There are approximately eighteen (18) members of the public.

1. CALL TO ORDER

Chair Patrick called the meeting to order at 11:04 am. She acknowledged that the meeting was being held in traditional territory of the Coast Salish First Nations.

2. APPROVAL OF AGENDA

It was recommended that Item 16.1 "Bylaw enforcement of trailers and temporary housing" be added to the agenda.

By general consent the agenda was approved as amended.

3. TRUSTEE REPORT

Trustee McConchie reported the following items:

- Collaboration with Ministry of Transportation and Infrastructure to support repair to South Pender Island's Canal Road.
- Work with Pender Islands Parks and Recreation Commission regarding the health of Magic Lake and invasive species.
- Regarding the James Island Subdivision application, landowners are undertaking consultation with First Nations.
- Ongoing work regarding moratorium on bylaw enforcement on trailers and temporary housing.
- Update on local environmental covenants registered by North Pender Island land owners.

Trustee Morrison reported the following items:

- Updates on Trust Council including the current progress of both the governance review and Trust Policy Statement.
- Recent attendance at the United Nations meeting in Glasgow. Provided an update on global work and the progress being made locally that is line with that.

4. CHAIR'S REPORT

Chair Patrick reported that Trust Council approved a draft budget and that public consultation will now begin prior to adoption in March 2022.

She further reported on current projects being undertaken within the Trust Area and encouraged members of the community to provide feedback and engage with their Trustees.

5. TOWN HALL AND QUESTIONS

Dan Digem spoke to NP-TUP-2021.7 (Harwood) and expressed concern for resultant noise and traffic. He encouraged the Local Trust Committee (LTC) to deny the application as it is an industrial/commercial venture in a residential neighbourhood.

Alan Munroe addressed NP-TUP-2021.7 (Harwood) and expressed concern for ongoing traffic issues on a road that is already poorly designed and maintained.

Budd Kerfoot spoke as a representative of the resort at 1329 and 1333 MacKinnon Road. He outlined their intentions to develop an eco-style resort and provided an overview of the project's water conservation plan including rainwater catchment and large cisterns. He further outlined their intention to hire a hydrogeologist for further planning.

Michael Robinson spoke as the property owner of 1349 Mackinnon Road property being considered for rezoning. He reported that they purchased the property with the current zoning and any changes to that could impact their commercial mortgage and the value of the property. He further noted that their property's water is largely sourced from cisterns and rainwater collection.

Don Korbin requested clarification on the phrase "Indigenous ways of knowing" and the term "settler" being used in Islands Trust documents.

The Local Trust Committee (LTC) recommended that Lisa Wilcox be invited to attend an upcoming North Pender Island LTC meeting to provide information.

Don Korbin requested information on the process for the Trust Policy Document and the status of that document.

The LTC provided an update on the process of the Trust Policy Document and opportunities for providing feedback on the document. It was noted that the document could be improved with the creation of a section of definitions.

Don Korbin requested information on the plan to hold a Special Meeting for the Land Use Bylaw in collaboration with the South Pender Island LTC and the goals of that meeting.

Rob Fenton introduced himself as a lawyer representing a property owner who has received a bylaw enforcement decision directing them to stop residing in their trailers. He noted that the

LTC has the authority to close the bylaw file and that he has submitted a letter outlining the concerns of the property owners and requesting that the LTC exercise that authority.

Suzanne Pollard addressed the housing crisis on the island and shared anecdotes of the impact that crisis is having in all areas of the community. She encouraged the LTC to consider the role of recreational vehicles in providing safe, sanitary, and affordable housing.

By general consensus, the LTC agreed to add item 16.1 In Camera Meeting for the discussion of Bylaw Enforcement.

Michael Sketch spoke to the issue of Commercial 2 (C2) zoning and provided a history of the matter and its relation to the Otter Bay area. He encouraged the LTC to prioritize protection of groundwater resources.

Kathy Allison requested clarification on the Land Use Bylaw review and the maximum floor sizes being considered.

Aaron Campbell requested information on the complaint-driven process for bylaw enforcement. He noted that the current system fosters a sense of personal attack on the property owners and encouraged the Islands Trust to add a step to process in which the complaint is first investigated before an official file is opened.

Gabrielle Au spoke in support of the LTC's intent to declare a moratorium on bylaw enforcement of trailers and temporary housing. He encouraged the LTC to take guidance from a similar resolution passed on Salt Spring Island that would extend the moratorium until the housing crisis has resolved.

6. COMMUNITY INFORMATION MEETING - None

7. PUBLIC HEARING - None

8. MINUTES

8.1 Local Trust Committee Special Meeting Minutes Dated October 22, 2021 (for Adoption)

By general consent the Local Trust committee meeting minutes of October 22, 2021 were adopted as presented.

8.2 Local Trust Committee Minutes Dated October 28, 2021 (for Adoption)

By general consent the Local Trust committee meeting minutes of October 28, 2021 were adopted as presented.

8.3 Section 26 Resolutions-without-meeting Report

None.

8.4 Advisory Planning Commission Minutes

None

9. BUSINESS ARISING FROM THE MINUTES

9.1 Follow-up Action List Dated Nov 2021

Received for information.

10. DELEGATIONS - None

11. CORRESPONDENCE

Correspondence received concerning current applications or projects is posted to the LTC webpage

12. APPLICATIONS AND REFERRALS

12.1 NP-DVP-2021.5 (Billingsley) - Staff Report

Planner Testemale provided an overview of the staff report. He highlighted the reasons for the application, outlined the alternatives available to the property owners, and discussed the rationale that led to the staff recommendation.

Chair Patrick acknowledged the applicants who provided an overview of their intent for the property and the significance of the application in protecting a historical building.

The LTC discussed the application, including the following points:

- The challenge of bylaws requiring that this former home be removed from the housing stock.
- Clarification of the archeological investigations that have been completed and would be appropriate for this application.
- Options for allowing the building to remain as a cottage and the limitations of doing so under the current Land Use Bylaw.

NP-2021-099

It was Moved and Seconded,

that the North Pender Island Local Trust Committee approve issuance of Development Variance Permit application NP-DVP-2021.5 (Billingsley).

CARRIED

12.2 NP-TUP-2021.7 (Harwood) – Preliminary Staff Report

Phil Testemale provided an overview of the application and the associated preliminary staff report. He noted the length of time that the applicant has been operating and outlined the potential impacts on neighbouring properties. The relevance of the current Land Use Bylaw Review was noted and the rationale for staff recommendations were provided.

A discussion was held, including the following point:

- Challenges of the location and impact on neighbours.
- Rationale for a Temporary Use Permit application over a rezoning application.
- Challenges of expanding industrial land uses through Temporary Use Permits.

NP-2021-100

It was Moved and Seconded,

that the North Pender Island Local Trust Committee deny Temporary Use Permit application NP-TUP2021.7 (Harwood).

CARRIED

12.3 NP-DP-2021.7 (Brodie) – Staff Report

Planner Testemale provided an overview of the application on Sidney Island. He outlined the geotechnical and arborist reports, the recommended conditions of the Development Permit, and the response to the Islands Trust Conservancy referral.

A discussion was held including the following points:

- Clarification of the professional accreditation of arborists.
- Process and limitations of the LTC's discretion with development permit applications.
- Impact of shifting precipitation models on the geotechnical report.

The LTC noted that they would like to receive additional information in the form of a site visit, a discussion with the geotechnical engineer, and an updated topographic photo that shows the recent clearing of trees.

NP-2021-101

It was Moved and Seconded,

that the North Pender Island Local Trust Committee request that the applicant and Local Trust Committee participate in an onsite visit and a meeting geotechnical engineer, to be scheduled in the spring 2022.

CARRIED

12.4 Salt Spring Island Local Trust Committee Referral for Proposed Bylaw No. 525

NP-2021-102

It was Moved and Seconded,

that the North Pender Island Local Committee respond to Salt Spring Island Local Trust Committee Referral for Proposed Bylaw No. 525 with "interests unaffected".

CARRIED

13. BREAK

A break was held from 1:30-1:35 pm

14. LOCAL TRUST COMMITTEE PROJECTS

14.1 Land Use Bylaw Review Project - Staff Report

Chair Patrick acknowledged South Pender Island Trustees, Steve Wright and Cameron Thorne and invited them to participate in the discussion.

Planner Stockdill provided an overview of the staff report as it applies to maximum floor area.

The North and South Pender Trustees discussed maximum floor area regulations on each of the islands, including the current status, potential amendments, and strategies for mitigating concerns of legal non-conforming status.

The following points were addressed:

- Rationale for establishing maximum floor areas.
- Community concerns of the impact of legal non-conforming status.
- Importance of forward thinking to protect the rural character of the island.
- Consideration of inclusion of all impermeable surfaces to protect infiltration levels and manage surface runoff.
- Value in having similar maximum floor area bylaws on both North and South Pender.
- Opportunities to allow flexibility within the regulations, such as allowing maximum coverage to be split between a primary residence and secondary buildings.

By general consent it was agreed that the South Pender Island Trustees be invited to the North Pender LTC February 5, 2022 meeting.

A discussion was held regarding the maximum floor areas proposed by each of the LTCs and the benefits of considering a total maximum floor area for all impervious surfaces was noted.

By general consent the LTC requested an amendment to the draft bylaw for the addition of a column to Figure 2 that communicates maximum lot coverage.

Planner Stockdill provided an overview of staff report's discussion of Commercial 2 Zoning. She noted the significance of the ground water study for this area of the Land Use Bylaw Review.

A discussion was held and the following points were addressed:

- Community concerns for ferry traffic, road use, and water for fire suppression.
- Importance of a site visit to those properties who are requesting their properties not be included in the rezoning.

Planner Stockdill provided an overview of the staff report's discussion of a rezoning of the Driftwood property for residential rental units.

A discussion was held regarding opportunities and limitations for regulating use of ground water through land use.

By general consent the LTC requested that a requirement for water catchment and for fire suppression be added to the draft bylaw.

Chair Patrick acknowledged Dorothy Murdoch, representing the Driftwood Centre management.

Dorothy Murdoch reported that the property's intension is to use the C2 land as a campground and advocated that the zoning not be changed in the C2 location, but that rental housing zoning be considered on a rural portion of the property.

By general consent the LTC agreed to defer providing direction on this matter until a discussion with the property managers could be held.

Planner Stockdill provided an overview of the potential map amendments, including the rationale for those amendments and any implications.

A discussion was held regarding potential rezoning and the LTC requested additional information on the following proposals:

- Rezoning of the former Port Washington Store.
- Rezoning the Medicine Beach Market property to make the waste drop off site a permitted use.

15. REPORTS

15.1 Work Program Report

15.1.1 Top Priorities Report Dated Nov 2021

Received for information

15.1.2 Projects List Report Dated Nov 2021

Received for information.

15.2 Applications Report Dated Nov 2021

Received for information.

15.3 Trustee and Local Expense Report Dated Oct 2021

Received for information.

15.4 Adopted Policies and Standing Resolutions

Received for information.

15.5 Local Trust Committee Webpage

No comments heard.

15.6 Islands Trust Conservancy Report

15.6.1 Nighthawk Hill NAPTEP addition Application (North Pender) – Briefing

Received for information

16. NEW BUSINESS

16.1 Bylaw Enforcement of Trailers and Temporary Housing

The LTC requested and received information from Bylaw Enforcement Manager (BEM) Warren Dingman regarding open bylaw files for trailers being used for temporary

housing. BEM Warren Dingman also provided a brief overview of the implication of the proposed moratorium on those files.

By general consent the LTC agreed to continue the discussion during an in camera session at the end of the meeting.

17. UPCOMING MEETINGS

17.1 Next Regular Meeting Scheduled for January 27, 2022 at the Anglican Parish Hall, Pender Island

18. TOWN HALL

Diane Cuthbert encouraged the LTC to consider what issue is being solved by limiting maximum house size.

19. CLOSED MEETING

NP-2021-103

It was Moved and Seconded,

that the meeting be closed to the public in accordance with the Community Charter, Part 4, Division 3 s. 90(1) (a)(d)(i) for the purpose of considering a bylaw enforcement file AND that the recorder and staff attend the meeting

CARRIED

At 3:23 pm Chair Patrick reopened the public meeting. She noted that as the members of the public were no longer present, the next public meeting shall include an update that there was no Rise and Report from the closed meeting.

20. ADJOURNMENT

By general consent the meeting was adjourned at 3:25 pm.

Laura Patrick, Chair

Certified Correct:

Shannon Brayford, Recorder



Follow Up Action Report

North Pender Island

28-Jan-2021

Activity	Responsibility	Dates	Status
1 NP LTC requests direction from Director Clare Frater on how to advocate for best practices related to dock maintenance and ocean health.	Clare Frater	Target: 26-Feb-2021	In Progress

27-May-2021

Activity	Responsibility	Dates	Status
1 NP LTC to advocate to prohibit helicopter use in the Islands Trust area - Trust Area Services to follow up	Clare Frater Mike Richards	Target: 30-Jul-2021	In Progress

22-Oct-2021

Activity	Responsibility	Dates	Status
1 Land Use Bylaw Review Project 1. identify potential CIM dates (2) in late January, February (DONE) 2. contact trustees for availability (DONE). 3. prepare notice for Pender Post (DONE) and a mail-out (send out late December).	Kim Stockdill Robin Ellchuk	Target: 19-Nov-2021	Completed

28-Oct-2021

Activity	Responsibility	Dates	Status
1 Report back with options for a standing resolution for referring Sidney Island applications to Strata	Robert Kojima	Target: 20-Jan-2022	Completed



Follow Up Action Report

North Pender Island

28-Oct-2021

Activity	Responsibility	Dates	Status
2 Bylaw enforcement manager requested to report on: 1. enforcement on TUP conditions for concrete plant 2. NPILTC placing a moratorium on enforcement of temporary housing , and requested to provide options for on a policy on temporary housing enforcement	Warren Dingman	Target: 20-Jan-2022	Completed
3 15.1 Staff to draft a fees bylaw based n model fee bylaw	Jas Chonk Robert Kojima	Target: 10-Dec-2021	Completed
4 15.2 Staff to draft a letter to CRD Magic Lake Sewer and Water Committee and to electoral area director requesting a plan for water quality improvement on Magic Lake (for Chairs signature)	Kim Stockdill	Target: 26-Nov-2021	In Progress

04-Dec-2021

Activity	Responsibility	Dates	Status
1 8.1 & 8.2 - LTC minutes from Special Meeting on Oct 22, 2021 and regular meeting on Oct 28, 2021 adopted as presented.	Robin Ellchuk	Target: 17-Dec-2021	Completed
2 12.1 NP-DVP-2021.5 approved. Staff to notify applicant, issue permit and close file.	Jas Chonk Maple Hung Phil Testemale	Target: 24-Dec-2021	Completed



Follow Up Action Report

North Pender Island

04-Dec-2021

Activity	Responsibility	Dates	Status
3 12.2 NP-TUP-2021.7 application denied. Staff to notify applicant, close file, and notify bylaw enforcement.	Phil Testemale Robin Ellchuk Warren Dingman	Target: 24-Dec-2021	Completed
4 12.3 NP-DP-2021.7 Staff to organize onsite site visit between applicant and LTC in spring 2022. Engineer to be invited to a future LTC meeting to discuss Geological Assessment Report.	Phil Testemale	Target: 27-May-2022	Completed
5 12.4 SSI LTC Bylaw No. 525 - Interests unaffected.	Jas Chonk	Target: 17-Dec-2021	Completed
6 14.1 LUB Review Project 1. Staff to organize site visit with LTC to 1329/1333/1349 MacKinnon Road in early January. 2. Trustees to report back after discussions with property manager regarding rental housing zoning on Driftwood Centre properties. 3. Staff to report back with rainwater collection (and for fire suppression) regulations for rental housing zoning. 4. Staff to report back with options for total maximum floor area for all buildings and structures (based on 25 percent lot coverage). 5. Staff to amend draft LUB mapping (portion of Magic Lake to be RR1, Port Wash to remain C1(a), Medicine Beach drop off to remain C1(e), ensure zoning boundaries are correct for I(b), and RH on driftwood centre to be determined).	Kim Stockdill	Target: 21-Jan-2022	In Progress

File No.: x-ref: NP-RZ-2016.2 and SUB-2016.2)

DATE OF MEETING: January 27, 2022

TO: North Pender Island Local Trust Committee

FROM: Phil Testemale
Southern Team

SUBJECT: Request for Discharge of Section 219 Covenants
Applicant: Dominique Alford, Alfred, Walden Law
Location: 4602 Oak Road

RECOMMENDATION

1. That the North Pender Island Local Trust Committee accepts the discharge of Section 219 Covenant CA6746422, Covenant CA6746425 and Statutory Right of Way FB517088 over Lot 3, Section 11, Pender Island, Cowichan District, Plan VIP7982, Except part in Plan 21227, 1772RW and EPP93836, and designates the Chair of the Local Trust Committee to sign the discharge of the covenants and Statutory Right of Way (4602 Oak Roads).

PURPOSE

The purpose of this report is to consider a request from the owner to discharge two (2) Section 219 Covenants and a Statutory Right of Way (SRW) registered on the subject property located at 4602 Oak Road.

BACKGROUND

The lawyer for the owner of the subject property has made a written request to discharge the covenants and the SRW on the property (Attachment 1) as the subdivision has now been completed and the covenants are not applicable to the Rural lot. The legal instruments are for development control, density limits, access and other protections for Port Browning Marina's Commercial water and upland lots.

Application NP-RZ-2016.3 rezoned the 0.7 ha portion of the subject lot north of Oak Road the road together with 4605 Oak Road to **Commercial 3 (C3)** (Figure 1). The concurrent subdivision application NP-SUB-2016.2 severs that 0.7 ha portion and consolidates it into the new Lot 1, leaving a remainder, subject Rural property (Lot 3, Plan VIP7982) to the south of road.

The two (2) covenants and SRW that were accepted as conditions of the rezoning application and the concurrent application NP-RZ-2016.2 (which was for the rezoning of the water lots), and were required to be registered on the title of both properties at the time. The content of these is detailed as follows:

Covenant 6746422 is a temporary (development control) covenant that:

- Installation and operation of **Sewer Pump-Out Facility**;
- Construction of a **25 metre Pool**; and,
- An access agreement with the **Pender Islands Junior Sailing Club** in its current location.

CA6746425 (which includes **SRO FB517088** - Attachment 3) is a permanent covenant that:

- Restricts the maximum **density** for commercial accommodation to **29** units;
- Provides **Archaeological Protection** by incorporation of recommendations of the **Archaeological Impact Assessment (AIA)** report (Madrone Environmental Consultants, March 10, 2017);
- Preserve the **Open Field Area** permitting only limited structures and maintenance of public access; and,
- Provides Access to a **25 metre Pool** through a Statutory Right of Way.

The subdivision has now been completed and filed, and with that, the controls and protections no longer have any applicability to the Rural property which has an accepted offer of sale. However, because covenants 'run with the land', they were transferred to the new property title. Discharge will allow for the encumbrances to be removed from the new title of Lot 3 and for the conveyancing of the property to be completed.

Both documents make provisions (Sections 4 and 13 therein, respectively) for the requested discharges as follows;

After the filing of a subdivision plan of Lot 3 generally in accordance with the draft site plan or subdivision plan attached as Schedule "C", the Owners may provide a release for signature by the LTC's authorized signatories of this Agreement from that part of Lot 3 shown as "Section 1" having an area of 3.92 ha on Schedule "C". The LTC covenants and agrees not to reasonably withhold signature of the release. The preparation and registration of the release, including all costs thereof, shall be at the sole expense of the Owners.

Islands Trust





Lawyers & Notaries

216 – 2506 Beacon Avenue, Sidney, BC V8L 1Y2
P: 778.426.3330 F: 778.426.3332
W: www.alfordwalden.com

Reply to: **Dominique J. Alford***
Extension: **#202**
Email: **dalford@alfordwalden.com**
* DENOTES LAW CORPORATION

Our File Number: 70561

October 27, 2021

North Pender Island Local Trust Committee
by email: ptestemale@islandstruct.bc.ca

Dear Sirs/Mesdames:

**Re: Covenant CA6746422, Covenant CA6746425 and Statutory Right of Way FB517088
over property located at 4602 Oak Road, Pender Island, BC
NEW legal description PID 005-636-591 Lot 3, Section 11, Pender Island, Cowichan District,
Plan 7982 Except Part in Plan 21227, 1772RW and EPP93836 (the "Property")**

We act for Lucille Henshaw, registered owner of the above referenced Property. We enclose for your execution and return, a Form C Release of Covenant CA6746422, Covenant CA6746425 and Statutory Right of Way FB517088 (collectively the "Charges") as they pertain to PID 005-636-591 only.

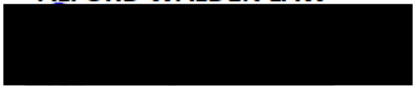
We confirm that the Property has recently been subdivided. As a result, the 1.7 acre area of the Property that the Charges service has been carved off and is no longer included in PID 005-636-591. The 1.7 acre area is now included in 4605 Oak Road, newly described as PID 031-519-521, Lot 1 Section 11 Island Pender Cowichan District Plan EPP93836. We enclose for your reference a copy of the newly created titles for the Property and PID 031-519-521, along with a copy of Subdivision Plan EPP93836 filed to carve the 1.7 acres area off of the Property.

We ask that you please attend to execution of the enclosed Form C Release and return to our office for filing in the Land Title Office as soon as possible as there is a pending sale transaction for the Property.

We trust you find the above and enclosed in order. Should you have any questions please do not hesitate to contact the writer.

Yours truly,

ALFORD WALDEN LAW


Dominique J. Alford
DJA/jeg
encls.

LAND TITLE ACT
FORM C (Section 233) CHARGE

Apr-19-2018 13:54:34.001

CA6746422 CA6746424

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 24 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Guy William
Patterson
E7RNFV

Digitally signed by Guy
William Patterson E7RNFV
Date: 2018.04.18 16:29:21
-07'00'

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Guy Patterson, Barrister & Solicitor

YOUNG ANDERSON

1616 - 808 Nelson Street

Vancouver

BC V6Z 2H2

Phone: (604) 689-7400

File: 2-790

Section 219 Covenant - Temporary

Document Fees: \$214.74

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

SEE SCHEDULE

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.

(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

SEE SCHEDULE

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

A CORPORATION UNDER THE ISLANDS TRUST ACT

SUITE 200, 1627 FORT STREET

VICTORIA

BRITISH COLUMBIA

V8R 1H8

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date

Transferor(s) Signature(s)

DOMINIQUE J. ALFORD

Barrister & Solicitor

201-2377 Bevan Avenue

Sidney, BC V8L 4M9

Y	M	D
18	03	22

LUCILLE HENSHAW

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

PAGE 2 of 24 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y	M	D
18	04	03

John D. Mullin

Barrister & Solicitor

1626 Garnet Road
Victoria, BC V8P 3C8

(as to all signatures)

PORT BROWNING MARINA RESORT
LTD. by its authorized signatory(ies):

Name: Duane Shaw

Name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

PAGE 3 of 24 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Katie M. McGowan

18

03

05

Commissioner for Taking Affidavits in British Columbia

Vancouver City Savings Credit Union
6th Floor, 183 Terminal Avenue
Vancouver, BC V6A 4G2
Phone: 604-877-6565
Expiry Date: June 30, 2019

VANCOUVER CITY SAVINGS CREDIT
UNION by its authorized signatory(ies):

Name: Karen O'Mara, Loan Security
Coordinator Community Business
Administration

Name:

(as to all signatures)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM D**

EXECUTIONS CONTINUED

PAGE 4 of 24 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Y	M	D
18	04	11

Carmen Ida Thiel

Commissioner for Taking Affidavits in British Columbia

200-1627 Fort Street
Victoria, BC V8R 1H8
Expires February 29, 2020

NORTH PENDER ISLAND LOCAL
TRUST COMMITTEE by its authorized
signatory(ies):

Name: George Grams

Name:

(as to all signatures)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM E****SCHEDULE**PAGE 5 OF 24 PAGES

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

005-636-591**LOT 3, SECTION 11 ,PENDER ISLAND, COWICHAN DISTRICT, PLAN 7982,
EXCEPT PART IN PLAN 21227 AND 1772RW**

STC?

YES ☐

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

005-034-311**LOT A (DD G54184) OF SECTION 11, PENDER ISLAND, COWICHAN DISTRICT,
PLAN 7982**

STC?

YES ☐

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

STC?

YES ☐

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 6 OF 24 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Covenant

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Granting the Covenant herein priority over
Mortgage CA4670639 and Assignment of Rents
CA4670640 (as to PID: 005-636-591)

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Granting the Covenant herein priority over Option
to Purchase CA4671308 and Right of First Refusal
CA4671309 (as to PID: 005-636-591)

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 7 OF 24 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

5. TRANSFEROR(S):

LUCILLE HENSHAW [as to covenant]

PORT BROWNING MARINA RESORT LTD. (Inc.No. BC1037734) [as to covenant and priority]

VANCOUVER CITY SAVINGS CREDIT UNION (Inc. No. FI 97) [as to priority]

TERMS OF INSTRUMENT – PART 2

SECTION 219 COVENANT – TEMPORARY

This AGREEMENT dated for reference the 31st day of January 2018, is

BETWEEN:

LUCILLE HENSHAW, P.O. Box 126, Pender Island, British Columbia, V0N 2M0

("Henshaw")

AND:

PORT BROWNING MARINA RESORT LTD., (INC. NO. BC1037734), 740
Handy Road Mill Bay, British Columbia, V0R 2P1

("Port Browning Marina", which collectively with Henshaw are referred to
in this Agreement as the "Owners")

AND:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a Corporation under
the *Islands Trust Act*, R.S.B.C. 1996, c.239, with an office at Suite 200, 1627
Fort Street, Victoria, British Columbia, V8R 1H8

(the "LTC")

WHEREAS:

- A. Henshaw is the registered owner in fee simple of that certain parcel of land and premises on North Pender Island, in the Province of British Columbia, more particularly known and described as PID: 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW ("Lot 3");
- B. Port Browning Marina is the registered owner in fee simple of those certain parcels of land and premises on North Pender Island, in the Province of British Columbia, more particularly known and described as PID: 005-034-311, Lot A (DD G54184) of Section 11, Pender Island, Cowichan District, Plan 7982 ("Lot A", which collectively with Lot 3 are referred to in this Agreement as the "Lands");
- C. The Owners propose to develop the Lands for purposes of renovating or constructing a restaurant, marina, clubhouse, lodge and cabins, in accordance with the provisions of the North Pender Island Official Community Plan and have requested an amendment to

the present zoning requirements of the Lands (the "Zoning Amendment") and as a condition of the LTC granting the Zoning Amendment, the Owners have agreed to enter into this Section 219 Covenant;

- D. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of a municipality, in respect of the use of land, the building on land, the subdivision of land and the preservation of land or a specific amenity on the land; and
- E. The Owners wish to grant and the LTC wishes to accept a covenant over the Lands restricting the use of the Lands and the buildings on the Lands, in the manner herein provided so that the Zoning Amendment can proceed more expeditiously.

NOW THEREFORE in consideration of the premises and the covenants herein contained, the payment of \$1.00 by the LTC to the Owners, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree, pursuant to Section 219 of the *Land Title Act* as follows:

GRANT OF SECTION 219 COVENANT

- 1. The Owners covenant and agree with the LTC that the Lands shall be used and built upon only in accordance with this Agreement.

USE OR OCCUPATION OF COMMERCIAL ACCOMMODATION UNITS

- 2. The Owners covenant and agree that no commercial accommodation unit located on the Lands shall be used or occupied, and the Owners shall not apply for or be entitled to receive an occupancy permit for any commercial accommodation unit on the Lands until and unless the Owners:
 - (a) install and operate a marine pump-out station on District Lots 85 and/or 107 for the use of resident and transient vessels and that:
 - (i) such pump-out station be capable of accommodating the volume of discharge generated by client vessels;
 - (ii) the marine pump-out station be installed and operated in accordance with the British Columbia *Sewerage System Regulation* and any and all other applicable regulations of other public agencies;
 - (iii) confirmation of such compliance be made available upon request by the LTC; and
 - (iv) the Owners are responsible for all costs associated with this service including any holding tank system installation and contracting the hauling of waste to an approved site;

- (b) have substantially completed construction of an in-ground, heated 25 metre long swimming pool on the Lands (the "Swimming Pool Facility"), to the satisfaction of the LTC. For the purposes of this subsection "substantially completed" means completion of the installation of all mechanical components of the Swimming Pool Facility, including functioning pumps and electrical components; and
- (c) have entered into a licence or easement agreement in favour of the Pender Islands Junior Sailing Association, substantially in the form attached as Schedule "A".

DISCHARGE

- 3. The parties agree that the Owners shall be entitled to a discharge of this Agreement from title to the Lands at the Owners' expense if the Zoning Amendment is not adopted by the LTC.
- 4. After the filing of a subdivision plan of Lot 3 generally in accordance with the draft site or subdivision plan attached as Schedule "B", the Owners may provide a release to the LTC for signature by the LTC's authorized signatories of this Agreement from that part of Lot 3 shown as "Section 1" having an area of 3.92 ha on Schedule "B". The LTC covenants and agrees not to unreasonably withhold signature of the release. The preparation and registration of the release, including all costs thereof, shall be at the sole expense of the Owners.
- 5. After satisfaction of all of those conditions specified in sections 2 and 3 herein, the Owner may provide a release of this Agreement to the LTC for signature by the LTC's authorized signatories. The LTC covenants and agrees not to unreasonably withhold signature of the release. The preparation and registration of the release, including all costs thereof, shall be at the sole expense of the Owners.

SEVERANCE

- 6. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement.

RUNS WITH THE LANDS

- 7. The covenants set forth herein shall charge the Lands pursuant to Section 219 of the *Land Title Act* and shall be covenants the burden of which shall run with the Lands and bind the Lands and every part or part thereof, and shall attach to and run with the Lands and each and every part into which the Lands may be divided or subdivided, whether by subdivision plan, strata plan, or otherwise howsoever.

INDEMNITY

8. The Owners hereby release, indemnify and save harmless the LTC, its elected officials, officers, employees, agents and others for whom the LTC is responsible at law from and against any and all manner of actions, cause of action, claims, costs, expenses (including actual legal fees), losses, damages, debts, demands and harm, by whomsoever brought, of whatsoever kind and howsoever arising out of or related to the Agreement or any breaches or non-performance of this Agreement by the Owners.

BYLAWS TO THE CONTRARY

9. This Agreement shall restrict the use of the Lands and buildings on the Lands in the manner provided herein notwithstanding any right or permission to the contrary contained in any bylaw of the LTC, which, except in the case of direct collision with the provisions contained in this Agreement, will continue to have application.

FURTHER ASSURANCES

10. The parties hereto shall execute and do all such further deeds, acts, things and assurances as may be reasonably required to carry out the intent of this Agreement. The Owners agree to do everything reasonably necessary at the Owners' expense to ensure that this Agreement is registered against the title to the Lands with priority over all financial charges, options, rights of first refusal, leases, liens, and encumbrances registered or the registration of which is pending.

WAIVER

11. Waiver by the LTC of any default by the Owners shall not be deemed to be a waiver of any subsequent default.

POWERS PRESERVED

12. Nothing contained or implied herein shall prejudice or affect the rights and powers of the LTC in the exercise of its functions pursuant to the *Local Government Act* or its rights and powers under all of its public and private statutes, bylaws, orders and regulations, including, without limitation, the *Community Charter*, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owners.

INVESTIGATIONS BY THE LTC

13. The Owners hereby irrevocably authorize the LTC to make such inquiries as it considers necessary and reasonable in order to confirm that the Owners are complying with this Agreement and irrevocably authorize and direct the recipient of any request for

information from the LTC to provide such information to the LTC.

NO PUBLIC LAW DUTY

14. Wherever in this Agreement the LTC is required or entitled to exercise any discretion in the granting of consent or approval or is entitled to make any determination, take any action or exercise any contractual right or remedy, the LTC may do so in accordance with the provisions of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice, shall have any application.

REFERENCES

15. In this Agreement:
 - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
 - (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
 - (e) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment and is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided; and
 - (f) reference to a "party" is a reference to a party to this Agreement and to their respective heirs, executors, administrators, successors, assigns, trustees, receivers, agents, officials, employees and invitees, under the context requires or allows.

SCHEDULES

16. Schedules "A" and "B" form part of this Agreement.

THE LTC'S REPRESENTATIVE

17. Any opinion, decision, act or expression of satisfaction or acceptance provided for in this Agreement may be taken or made by the Islands Trust's Director of Local Planning Services or his/her delegate (the "Director of Local Planning Services"), unless expressly provided to be taken or made by another official of the LTC.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Form C and D which is attached hereto and forms part of this Agreement.

LICENSE OF OCCUPATION

THIS AGREEMENT dated for reference the 31st day of January 2018, is

BETWEEN:

LUCILLE HENSHAW, P.O. Box 126, Pender Island, British Columbia, V0N 2M0
(“Henshaw”)

AND:

PORT BROWNING MARINA RESORT LTD., (INC. NO. BC1037734), 740 Handy Road, Mill Bay, British Columbia, V0R 2P1

(“Port Browning Marina”, which collectively with Henshaw are referred to in this Agreement as the “Owners”)

AND:

PENDER ISLANDS JUNIOR SAILING ASSOCIATION, c/o Bruce Waygood, Commodore, 1200 Otter Bay Rd, Pender Island, BC, V0N 2M1

(the “Sailing Club”)

WHEREAS:

- A. Henshaw is the registered owner in fee simple of that certain parcel of land and premises on North Pender Island, in the Province of British Columbia, more particularly described as PID: 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW (“Lot 3”);
- B. Port Browning Marina is the registered owner in fee simple of those certain parcels of land and premises on North Pender Island, in the Province of British Columbia, more particularly known and described as PID: 005-034-311, Lot A (DD G54184) of Section 11, Pender Island, Cowichan District, Plan 7982 (“Lot A”);
- C. Collectively, Lot 3 and Lot A are referred to in this Agreement as the “Lands”;
- D. The Sailing Club wishes to license that portion of the Lands shown outlined in bold on the sketch attached as Schedule “A” (the “Premises”), and the Owners wish to grant a license of the Premises to the Sailing Club, on the terms and conditions set out in this Agreement;

THIS AGREEMENT is evidence that, in consideration of the promises contained in this Agreement and the payment of \$1.00 (the “License Fee”) by the Sailing Club to the Owners (the receipt and sufficiency of which the Owners hereby acknowledges), the parties covenant and agree as follows:

1. **Grant of License** – The Owners hereby grant to the Sailing Club a license (the “License”) to enter upon, use, and occupy the Premises for the Term, on the terms and conditions of this Agreement and for the purposes set out in this Agreement.
2. **Term** – The term of this Agreement is 5 years, beginning on March 31, 2018 and expiring on March 31, 2023, subject to earlier termination pursuant to the terms of this Agreement. The Sailing Club may make one (1) written request for renewal of this Agreement no sooner than twelve (12) months and no later than six (6) months prior to the end of the initial term and, if the Sailing Club is in compliance with all provisions of this Agreement, upon receipt of the written request the Owners shall renew this Agreement without further documentation for an additional term of 5 years, upon the same terms and conditions except for this right of renewal. The initial term, together with any term of renewal, are referred to throughout this Agreement as the "Term".
3. **Purpose** – The Sailing Club shall only use the Premises for the purpose of operating a sailing school and related activities, and for the storage of small sailing craft and associated equipment.
4. **No Interest in Land** – The Sailing Club acknowledges and agrees that this Agreement creates a non-exclusive contractual license only and the Sailing Club acquires no interest in the Premises or the Lands but only the non-exclusive right to access and use the Premises in accordance with the terms and conditions of this Agreement.
5. **Sailing Club's Covenants** – The Sailing Club covenants and agrees with the Owners:
 - (a) to promptly pay, when due, all amounts required to be paid by it under this Agreement;
 - (b) not to do, suffer or permit anything in, on or from the Premises that may be or become a nuisance or annoyance to the owners, occupiers or users of any lands or premises adjacent to or near the Premises, including other occupiers and users of Lands, or to the public, including the accumulation of rubbish or unused personal property of any kind;
 - (c) not to do, suffer or permit any act or neglect that may in any manner directly or indirectly cause injury to the Premises or the Lands;
 - (d) to carry on and conduct its activities in, on and from the Premises in a good, efficient, and business-like manner;
 - (e) to provide all equipment, furnishings and supplies that may be required to use the Premises for its purposes and to maintain and repair the Sailing Club's property on the Premises so that it is at all times in a good condition and state of repair;
 - (f) to keep the Premises in a safe, tidy, and sanitary condition and keep the Premises free of any rubbish, litter and debris and keep the areas adjacent to the Premises free of any rubbish, litter and debris originating from the Premises;

- (g) to take all reasonable precautions to ensure the safety of all persons using the Premises; and
 - (h) to carry on and conduct its activities in, on and from the Premises in compliance with any and all laws, statutes, enactments, bylaws, regulations and orders from time to time in force, including all laws relating to the environment, environmental protection, pollution or public or occupational safety or health, and to obtain all required approvals and permits thereunder, and not to do or omit to do anything in, on, or from the Premises in contravention thereof.
6. **Routine Repair and Maintenance** – The Sailing Club must keep the Premises and all fixtures and appurtenances located therein in good repair consistent with standards of repair generally accepted in British Columbia with respect to comparable premises and necessary for the Sailing Club's use and occupation of the Premises. Upon written notice from the Owners, the Sailing Club shall make such repairs as are required by the Owners in the notice within thirty (30) days.
 7. **Owners Right of Repair** – If at any time during the Term the Sailing Club fails to keep the Premises in the condition required under this Agreement, the Owners may, by their employees, contractors and agents, enter upon the Premises for the purpose of remedying the Sailing Club's default if the Sailing Club fails to remedy such default within thirty (30) days following notice thereof from the Owners. The Sailing Club shall reimburse the Owners for the Owners' costs of remedying such default within twenty-one (21) days following receipt of an invoice from the Owners.
 8. **Alterations to Premises** – The Sailing Club shall not make any improvements or alterations to the Premises without the prior written consent of the Owners, which consent may not be unreasonably withheld.
 9. **Minimum Work Standards** – The Sailing Club shall ensure that any repairs or work with respect to the Premises done by or on behalf of the Sailing Club pursuant to sections 6 and 8 comply with all applicable laws, statutes, enactments, regulations, bylaws and orders from time to time in force, including the applicable building code and local government bylaws.
 10. **Entry by Owners** – The Owners may enter into the Premises at any time for the purpose of inspecting the Premises in order to determine whether the Sailing Club is complying with the requirements of this Agreement.
 11. **Termination Due to Default** – If and whenever
 - (a) the Sailing Club does not fully observe, perform and keep each and every term, covenant, agreement, stipulation, obligation, condition and provision of this Agreement to be observed, performed and kept by the Sailing Club, and persists in such default for thirty (30) days after written notice by the Owners; or
 - (b) the Sailing Club vacates or abandons the Premises or uses or permits or suffers the use of the Premises for any purpose other than the purposes permitted by this

Agreement, and such default persists for five (5) days after written notice by the Owners,

then the Owners may, at their option, terminate this Agreement and the Term then becomes immediately forfeited and void and the Sailing Club must immediately cease all use and occupation of the Premises and must vacate and deliver up possession of the Premises and the Owners may without notice or any form of legal process and without any adherence to public law duties or procedural fairness or the principles of natural justice, forthwith re-enter the Premises and repossess and enjoy the same.

12. **Ownership of Improvements at Termination** – If the Sailing Club does not, within twenty-one (21) days following termination or expiry of this Agreement, remove all improvements and alterations to the Premises done by or on behalf of the Sailing Club, whether during the Term or otherwise, those improvements and alterations are then forfeited to and become the permanent property of the Owners, without compensation to the Sailing Club.
13. **State of Premises at Termination** – Upon the expiry or earlier termination of this Agreement, the Sailing Club shall leave the Premises in a good, neat and tidy condition and otherwise in the condition they are required to be kept by the Sailing Club during the Term under the provisions of this Agreement.
14. **Remedies Cumulative** – No reference to or exercise of any specific right or remedy by the Owners prejudices or precludes the Owners from any other remedy, whether allowed at law or in equity or expressly provided for in this Agreement. No such remedy is exclusive or dependent upon any other such remedy, but the Owners may from time to time exercise any one or more of such remedies independently or in combination.
15. **Continuing Occupation** – If, after the termination of this Agreement, the Owners permit the Sailing Club to remain in possession of the Premises and the Owners accept money from the Sailing Club in respect of such possession, a tenancy from year to year will not be created by implication of law and the Sailing Club will be deemed to be a monthly occupier of the Premises only, subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.
16. **Insurance Requirements** – The Sailing Club shall, at its sole expense, obtain and maintain during the Term:
 - (a) commercial general liability insurance providing coverage for death, bodily injury, injury to participants, tenants legal liability, property loss and damage, and all other losses, arising out of or in connection with the operations, use and occupation of the Premises in an amount of not less than Two Million Dollars (\$2,000,000.00) per occurrence; and
 - (b) “all risks” insurance, for replacement cost, on all improvements from time to time making up part of the Premises and all of the Sailing Club’s fixtures and personal property on the Premises.

17. **Insurance Policies** – All policies of insurance required to be taken out by the Sailing Club must be issued by an insurance company entitled to carry on the business of insurance under the laws of British Columbia and must name the Owners as additional insured.
18. **Sailing Club's Representations and Warranties** – The Sailing Club represents and warrants that the Sailing Club has the power and capacity to enter into and carry out the obligations under this Agreement.
19. **Owners' Representations and Warranties** – The Owners represent and warrant that the Owners have the power and capacity to enter into and carry out the obligations under this Agreement.
20. **Interpretation** – In this Agreement:
 - (a) reference to the singular includes a reference to the plural and vice versa, unless the context requires otherwise;
 - (b) a particular numbered section or lettered Schedule is a reference to the correspondingly numbered section or lettered Schedule of this Agreement;
 - (c) an "enactment" is a reference to an enactment as that term is defined in the *Interpretation Act* (British Columbia) of the day this Agreement is made;
 - (d) any enactment is a reference to that enactment as amended, revised, consolidated or replaced;
 - (e) section headings are inserted for ease of reference and are not to be used in interpreting this Agreement;
 - (f) a party is a reference to a party to this Agreement;
 - (g) time is of the essence;
 - (h) where the word "including" is followed by a list, the contents of the list shall not circumscribe the generality of the expression immediately preceding the word "including"; and
 - (i) a reference to a party is deemed to include the heirs, executors, administrators, successors, assigns, servants, employees, agents, contractors, elected and appointed officials, officers, directors, licensees and invitees of such party where the context so requires and allows.
21. **Notices** – Where any notice, request, direction or other communication must be given or made by a party under the Agreement, it must be in writing and is effective if delivered in person, sent by registered mail addressed to the party for whom it is intended at the address set forth above in this Agreement, or sent by email, to the Owners at email address: contact@mbmg.ca or to the Sailing Club at email address:

kbwaygood@shaw.ca, as the case may be. Any notice is deemed to have been given if delivered in person, when delivered; if by registered mail, when the postal receipt is acknowledged by the other party; and, if by email, when transmitted. The address or email address of a party may be changed by notice in the manner set out in this provision.

22. **No Assignment** – The Sailing Club shall not assign the Sailing Club's rights or interest in this Agreement without the prior written consent of the Owners, which consent may be withheld in the Owners' sole discretion.
23. **Binding on Successors** – This Agreement enures to the benefit of and is binding upon the parties and their respective successors and permitted assigns, notwithstanding any rule of law or equity to the contrary.
24. **Law of British Columbia** – This Agreement must be construed according to the laws of the Province of British Columbia.
25. **Entire Agreement** – The provisions in this Agreement constitute the entire agreement between the parties and supersede all previous communications, representations, warranties, covenants and agreements, whether verbal or written, between the parties with respect to the subject matter of the Agreement.
26. **Waiver or Non-Action** – Waiver by either party of any breach of any term, covenant or condition of this Agreement by the other party must not be deemed to be a waiver of any subsequent default by that party. Failure by either party to take any action in respect of any breach of any term, covenant or condition of this Agreement by the other party must not be deemed to be a waiver of such term, covenant or condition.

As evidence of their agreement to be bound by the above terms, the Owners and the Sailing Club each have executed this Agreement on the respective dates written below:

Signed, Sealed and Delivered in the)
presence of:)

)

)

Name)

)

)

Address)

)

)

Occupation)

)

)

Date)

LUCILLE HENSHAW

PORT BROWNING MARINA RESORT LTD. by
its authorized signatories:

Name:

Name:

Date: _____

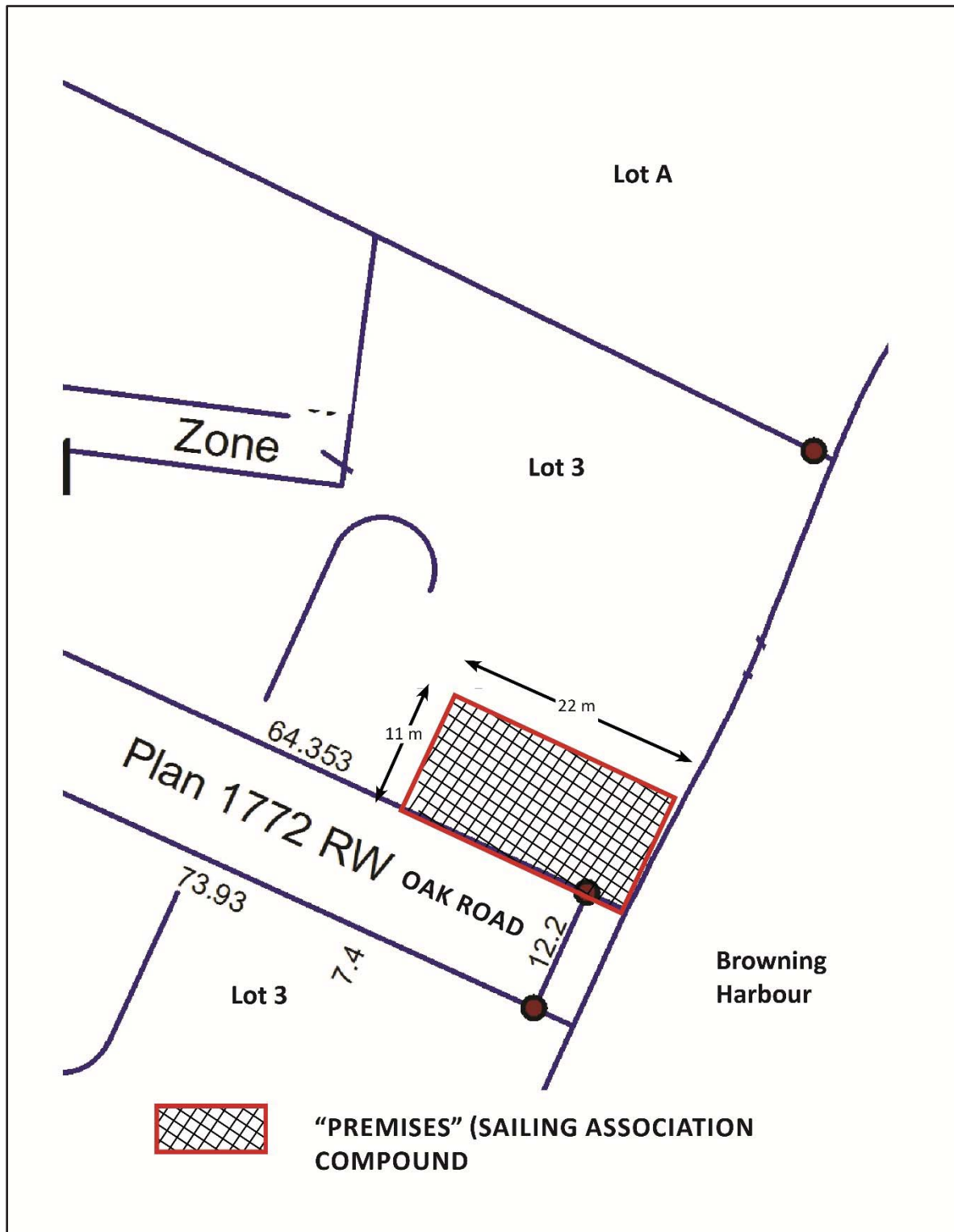
PENDER ISLANDS JUNIOR SAILING ASSOCIATION by
its authorized signatories:

Name:

Name:

Date: _____

Schedule A to License of Occupation

Sketch of Premises

CONSENT AND PRIORITY AGREEMENT

WHEREAS **VANCOUVER CITY SAVINGS CREDIT UNION, INC.NO. FI 97** (the “Chargeholder”) is the holder of a Mortgage and an Assignment of Rents (collectively called the “Charge”) encumbering PID 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW (the “Lands”) described in item 2 of the *Land Title Act* Form C attached hereto, which were registered in the Victoria Land Title Office under numbers **CA4670640** and **CA46709640**.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

1. The Chargeholder hereby consents to the granting and registration of the Section 219 Covenant attached hereto (the “Covenant”) and the Chargeholder hereby agrees that the Covenant shall be binding upon its interest in and to the Lands.
2. The Chargeholder hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Covenant over the Chargeholder’s right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Covenant as if the Covenant had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

WHEREAS **PORT BROWNING MARINA RESORT LTD., INC.NO. BC1037734** (the "Chargeholder") is the holder of an Option to Purchase and a Right of First Refusal (together, the "Charge") encumbering PID 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW (the "Lands") described in item 2 of the *Land Title Act* Form C attached hereto, which were registered in the Victoria Land Title Office under numbers **CA4671308** and **CA4671309**.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

1. The Chargeholder hereby consents to the granting and registration of the Section 219 Covenant attached hereto (the "Covenant") and the Chargeholder hereby agrees that the Covenant shall be binding upon its interest in and to the Lands.
2. The Chargeholder hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Covenant over the Chargeholder's right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Covenant as if the Covenant had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

END OF DOCUMENT

VICTORIA LAND TITLE OFFICE

Apr-19-2018 13:54:34.002

DECLARATION(S) ATTACHED
CA6746425 CA6746427LAND TITLE ACT
FORM C (Section 233) CHARGE

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 61 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Guy William
Patterson
E7RNFV

Digitally signed by Guy
William Patterson E7RNFV
Date: 2018.04.18 16:23:24
-07'00'

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Guy Patterson, Barrister & Solicitor

YOUNG ANDERSON

1616 - 808 Nelson Street

Vancouver

BC V6Z 2H2

Phone: (604) 689-7400

File: 2-790

Section 219 Covenant - Permanent

Document Fees: \$214.74

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

SEE SCHEDULESTC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

SEE SCHEDULE

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE**A CORPORATION UNDER THE ISLANDS TRUST ACT**

SUITE 200, 1627 FORT STREET

VICTORIA

BRITISH COLUMBIA

V8R 1H8

CANADA

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date

Transferor(s) Signature(s)

DOMINIQUE J. ALFORD

Barrister & Solicitor

201-2377 Bevan Avenue

Sidney, BC V8L 4M9

Y	M	D
18	03	22

LUCILLE HENSHAW

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

EXECUTIONS CONTINUED

PAGE 2 of 61 PAGES

Transferor / Borrower / Party Signature(s)

PORT BROWNING MARINA RESORT
LTD. by its authorized signatory(ies):

Name:

(as to all signatures)

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM D****EXECUTIONS CONTINUED**

PAGE 3 of 61 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Katie M. McGowan

18 03 05

VANCOUVER CITY SAVINGS CREDIT
UNION by its authorized signatory(ies):

Commissioner for Taking Affidavits in British Columbia

Vancouver City Savings Credit Union
6th Floor, 183 Terminal Avenue
Vancouver, B.C. V6A 4G2
Phone: 604-877-6565
Expiry Date: June 30, 2019Name: Karen O'Mara
Loan Security Coordinator
Community Business Administration

Name:

(as to all signatures)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM D****EXECUTIONS CONTINUED**

PAGE 4 of 61 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

Carmen Ida Thiel

Y	M	D
18	04	11

NORTH PENDER ISLAND LOCAL
TRUST COMMITTEE by its authorized
signatory(ies):

Commissioner for Taking Affidavits in British Columbia

200-1627 Fort Street
Victoria, BC V8R 1H8
Expires February 29, 2020

Name: George Grams

(as to all signatures)

Name:

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 5 OF 61 PAGES

-
2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**005-636-591 LOT 3, SECTION 11 ,PENDER ISLAND, COWICHAN DISTRICT, PLAN 7982,
EXCEPT PART IN PLAN 21227 AND 1772RW**

STC? YES ☐

-
2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

**005-034-311 LOT A (DD G54184) OF SECTION 11, PENDER ISLAND, COWICHAN DISTRICT,
PLAN 7982**

STC? YES ☐

-
2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
[PID] [LEGAL DESCRIPTION]

STC? YES ☐

LAND TITLE ACT
FORM E

SCHEDULEPAGE 6 OF 61 PAGES

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Covenant		

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		Granting the Covenant herein priority over Mortgage CA4670639 and Assignment of Rents CA4670640 (as to PID: 005-636-591)

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
Priority Agreement		Granting the Covenant herein priority over Option to Purchase CA4671308 and Right of First Refusal CA4671309 (as to PID: 005-636-591)

NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
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NATURE OF INTEREST	CHARGE NO.	ADDITIONAL INFORMATION
--------------------	------------	------------------------

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 7 OF 61 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

5. TRANSFEROR(S):

LUCILLE HENSHAW [as to covenant]

PORT BROWNING MARINA RESORT LTD. (Inc.No. BC1037734) [as to covenant and priority]

VANCOUVER CITY SAVINGS CREDIT UNION (Inc. No. FI 97) [as to priority]

TERMS OF INSTRUMENT – PART 2**SECTION 219 COVENANT & STATUTORY RIGHT OF WAY – PERMANENT**

This AGREEMENT dated for reference the 31st day of January 2018, is

BETWEEN:

LUCILLE HENSHAW, P.O. Box 126, Pender Island, British Columbia, V0N 2M0

("Henshaw")

AND:

PORT BROWNING MARINA RESORT LTD., (INC. NO. BC1037734), 740
Handy Road Mill Bay, British Columbia, V0R 2P1

("Port Browning Marina", which collectively with Henshaw are referred to
in this Agreement as the "Owners")

AND:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, a Corporation under
the *Islands Trust Act*, R.S.B.C. 1996, c.239, with an office at Suite 200, 1627
Fort Street, Victoria, British Columbia, V8R 1H8

(the "LTC")

WHEREAS:

- A. Henshaw is the registered owner in fee simple of that certain parcel of land and premises on North Pender Island, in the Province of British Columbia, more particularly known and described as PID: 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW ("Lot 3");
- B. Port Browning Marina is the registered owner in fee simple of those certain parcels of land and premises on North Pender Island, in the Province of British Columbia, more particularly known and described as PID: 005-034-311, Lot A (DD G54184) of Section 11, Pender Island, Cowichan District, Plan 7982 ("Lot A", which collectively with Lot 3 are referred to in this Agreement as the "Lands");
- C. The Owners propose to develop the Lands for purposes of renovating or constructing a restaurant, marina, clubhouse, lodge and cabins, in accordance with the provisions of the North Pender Island Official Community Plan and have requested an amendment to

the present zoning requirements of the Lands (the "Zoning Amendment") and as a condition of the LTC granting the Zoning Amendment, the Owners have agreed to enter into this Section 219 Covenant;

- D. Section 219 of the *Land Title Act* permits the registration of a covenant of a negative or positive nature in favour of a municipality, in respect of the use of land, the building on land, the subdivision of land and the preservation of land or a specific amenity on the land;
- E. The Owners wish to grant and the LTC wishes to accept a covenant over the Lands restricting the use of the Lands and the buildings on the Lands, and the preservation and protection of certain archaeological resources on the Lands in the manner herein provided so that the Zoning Amendment can proceed more expeditiously;
- F. The statutory right of way granted herein is necessary for the operation and maintenance of the LTC's undertaking.

NOW THEREFORE in consideration of the premises and the covenants herein contained, the payment of \$1.00 by the LTC to the Owners, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree, pursuant to Sections 218 and 219 of the *Land Title Act* as follows:

INTERPRETATION

- 1. In this Agreement:
 - (a) "Areas 1, 2 and 4" mean those areas of the Lands labelled "Areas 1, 2 and 4" on the Site Plan.
 - (b) "Area 3" means that area of the Lands labelled "Area 3" on the Site Plan.
 - (c) "ASA Permit" means an archaeological site alteration permit under sections 12 or 14 of the *Heritage Conservation Act*.
 - (d) "DeRt-11 Area" means that area of the Lands labelled "DeRt-11" on the Site Plan.
 - (e) "Open Field Area" means that area of the Lands labelled "Open Field Area" on the Site Plan.
 - (f) "Protected Archaeological Area" means that area of the Lands labelled "Protected Archaeological Area" on the Site Plan.
 - (g) "Report" means the Archaeological Impact Assessment report, prepared by Madrone Environmental Services Ltd., dated March 10, 2017, a copy of which is

attached hereto as Schedule "A".

- (h) "Site Plan" means that site plan attached as Schedule "B".
- (i) "Swimming Pool Facility" means an in-ground heated 25 metre long swimming pool located on the Lands, required by the LTC as a condition of the LTC adopting the Zoning Amendment.

GRANT OF SECTION 219 COVENANT

- 2. The Owners covenant and agree with the LTC that the Lands shall be used and built upon only in accordance with this Agreement.

MAXIMUM NUMBER OF UNITS

- 3. The Owners covenant and agree that the maximum number of commercial accommodation units built, constructed, or placed on the Lands shall not exceed twenty-nine (29) units.

ARCHAEOLOGICAL PROTECTION

- 4. The Owners covenant and agree that for the DeRt-11 Area, the Owners shall not do or permit to be done any of the following until and unless the Owners have received written permission from the Archaeology Branch of the Province of British Columbia for the specific activity, and provided a copy of such permission to the LTC:
 - (a) deposit any soil, earth, fill or other material for the purpose of filling in or raising the level of the land of the Protected Archaeological Area;
 - (b) remove or displace any soil, earth, fill, or rocks, shells, wood, plants or other beach material from the Protected Archaeological Area;
 - (c) remove, destroy, damage, alter or disturb any object or thing protected as a heritage object under the *Heritage Conservation Act* (British Columbia) from the Protected Archaeological Area; and
 - (d) construct, erect, or place any building, modular home, mobile home or unit, improvement or other structure on the Protected Archaeological Area.
- 5. The Owners covenant and agree that for Areas 1, 2, 3 and 4, the Owners shall not construct, erect, or place any building, modular home, mobile home or unit, improvement or other structure on, or remove or displace any soil, earth, or fill from Area 1, 2 and 4 until and unless the Owners have obtained an ASA Permit and provided a copy of the ASA Permit to the LTC.

6. Without limiting the foregoing, the Owners covenant and agree that the Lands shall not be used or disturbed, and no building or structure shall be located, constructed, reconstructed, moved or extended on the Lands, except in compliance with the recommendations in the Report (specifically pages 26 and 27).
7. The Owners acknowledge and agree with the LTC that in order for the LTC to provide its consent for the Owners to undertake any of the activities set out in sections 4 and 5, the LTC may, among other requirements, require the Owners to carry out appraisals, inspections, inventories, surveys, studies, analyses and other investigations of the Lands and the potential heritage or archaeological impact of any activity on the Lands. The Owners covenant and agree to complete all requirements of the LTC at the Owners' sole cost and expense.

USE OF AND BUILDING ON OPEN FIELD AREA

8. With respect to the Open Field Area, the Owners covenant and agree with the LTC as follows:
 - (a) the Owners shall not build, construct or place any building, structure or mobile home on the Open Field Area; and
 - (b) the Owners shall not install any permanent fencing, walls or other physical barriers which would impede or prevent access to the Open Field Area from any other adjacent part of the Lands or from the adjacent foreshore.

OWNERS' RIGHTS

9. Notwithstanding section 8 above, the Owners may:
 - (a) place on the Open Field Area an open rack-style storage structure for kayaks, canoes or paddleboards, to a maximum of 10 square metres;
 - (b) locate or place on the Open Field Area tents, tables, chairs and performances stage(s) for special events and private functions, located for a period of time not to exceed 96 hours in duration;
 - (c) place or construct on the Open Field Area one storage shed, to a maximum size of 27.8 square metres; and
 - (d) deny access to the Open Field Area to any person who, in the reasonable opinion of the Owners, is undertaking behaviour incompatible with the use of the Open Field Area.

GRANT OF STATUTORY RIGHT OF WAY – SWIMMING POOL FACILITY

10. The Owners hereby grant, convey, and confirm to the LTC in perpetuity the full, free and uninterrupted right, liberty, easement, and statutory right of way (the "Statutory Right of Way") for the LTC and all members of the public, in common with the Owners and their employees, contractors, agents, tenants, and invitees, at all times hereafter from time to time at their will and pleasure to enter, go, be on, pass and repass upon, over, and across the Lands for the purpose of accessing and using the Swimming Pool Facility, provided however that use of and access to and from the Swimming Pool Facility by the public will be limited to between the Friday before May 25 and the first Monday in September each year and between the hours of 10 a.m. and 4 p.m. each day, and provided that access to and from the Swimming Pool Facility will be limited to only those portions of the Lands that are reasonably necessary to obtain such access. For certainty, members of the public may access and use the Swimming Pool Facility free of charge; however, following the date that is five (5) years from the date on which this Agreement is registered on title to the Lands in the Land Title Office, the Owners may submit a request to the LTC to impose a reasonable fee on public use of the Swimming Pool Facility, and the LTC covenants and agrees not to unreasonably withhold its approval of such request. In connection with the Statutory Right of Way granted hereby, the LTC may do all things on the Lands that, in the LTC's reasonable opinion, are necessary in order to ensure that the public may access and use the Swimming Pool Facility, and may do all other things on the Lands as are reasonably necessary and incidental to the Statutory Right of Way granted herein.

OWNERS' OBLIGATIONS

11. The Owners must:
- (a) not do or permit to be done anything on the Lands which in the opinion of the LTC, acting reasonably, may interfere with, injure, or impair the operating efficiency of, or obstruct or discourage access to or the use of, the Swimming Pool Facility or the LTC's rights under the Statutory Right of Way; and
 - (b) permit the LTC to peaceably hold and enjoy the rights granted by the Statutory Right of Way.

DISCHARGE

12. The parties agree that the Owners shall be entitled to a discharge of this Agreement from title to the Lands at the Owners' expense if the Zoning Amendment is not adopted by the LTC.
13. After the filing of a subdivision plan of Lot 3 generally in accordance with the draft site

or subdivision plan attached as Schedule "C", the Owners may provide a release to the LTC for signature by the LTC's authorized signatories of this Agreement from that part of Lot 3 shown as "Section 1" having an area of 3.92 ha on Schedule "C". The LTC covenants and agrees not to unreasonably withhold signature of the release. The preparation and registration of the release, including all costs thereof, shall be at the sole expense of the Owners.

SEVERANCE

14. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder of the Agreement.

RUNS WITH THE LANDS

15. The covenants set forth herein shall charge the Lands pursuant to Section 219 of the *Land Title Act* and shall be covenants the burden of which shall run with the Lands and bind the Lands and every part or part thereof, and shall attach to and run with the Lands and each and every part into which the Lands may be divided or subdivided, whether by subdivision plan, strata plan, or otherwise howsoever.

INDEMNITY

16. The Owners hereby release, indemnify and save harmless the LTC, its elected officials, officers, employees, agents and others for whom the LTC is responsible at law from and against any and all manner of actions, cause of action, claims, costs, expenses (including actual legal fees), losses, damages, debts, demands and harm, by whomsoever brought, of whatsoever kind and howsoever arising out of or related to the Agreement or any breaches or non-performance of this Agreement by the Owners.

BYLAWS TO THE CONTRARY

17. This Agreement shall restrict the use of the Lands and buildings on the Lands in the manner provided herein notwithstanding any right or permission to the contrary contained in any bylaw of the LTC, which, except in the case of direct collision with the provisions contained in this Agreement, will continue to have application.

FURTHER ASSURANCES

18. The parties hereto shall execute and do all such further deeds, acts, things and assurances as may be reasonably required to carry out the intent of this Agreement. The Owners agree to do everything reasonably necessary at the Owners' expense to ensure that this Agreement is registered against the title to the Lands with priority over all financial charges, options, rights of first refusal, leases, liens, and encumbrances

registered or the registration of which is pending.

WAIVER

19. Waiver by the LTC of any default by the Owners shall not be deemed to be a waiver of any subsequent default.

POWERS PRESERVED

20. Nothing contained or implied herein shall prejudice or affect the rights and powers of the LTC in the exercise of its functions pursuant to the *Local Government Act* or its rights and powers under all of its public and private statutes, bylaws, orders and regulations, including, without limitation, the *Community Charter*, all of which may be fully and effectively exercised in relation to the Lands as if this Agreement had not been executed and delivered by the Owners.

INVESTIGATIONS BY THE LTC

21. The Owners hereby irrevocably authorize the LTC to make such inquiries as it considers necessary and reasonable in order to confirm that the Owners are complying with this Agreement and irrevocably authorize and direct the recipient of any request for information from the LTC to provide such information to the LTC.

NO PUBLIC LAW DUTY

22. Wherever in this Agreement the LTC is required or entitled to exercise any discretion in the granting of consent or approval or is entitled to make any determination, take any action or exercise any contractual right or remedy, the LTC may do so in accordance with the provisions of this Agreement and no public law duty, whether arising from the principles of procedural fairness or the rules of natural justice, shall have any application.

REFERENCES

23. In this Agreement:
 - (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
 - (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
 - (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article,

section or Schedule of this Agreement;

- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment and is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided; and
- (f) reference to a "party" is a reference to a party to this Agreement and to their respective heirs, executors, administrators, successors, assigns, trustees, receivers, agents, officials, employees and invitees, under the context requires or allows.

SCHEDULES

24. Schedules "A" through "C" form part of this Agreement.

THE LTC'S REPRESENTATIVE

25. Any opinion, decision, act or expression of satisfaction or acceptance provided for in this Agreement may be taken or made by the Islands Trust Director of Local Planning Services or his/her delegate (the "Director of Local Planning Services"), unless expressly provided to be taken or made by another official of the LTC.

As evidence of their agreement to be bound by the terms of this instrument, the parties hereto have executed the Land Title Form C and D which is attached hereto and forms part of this Agreement.

Schedule "A"

Page 16



ARCHAEOLOGICAL IMPACT ASSESSMENT

**Proposed Port Browning Marina
Redevelopment – Heritage Inspection
Permit 2016-0323**

PREPARED FOR

**Mill Bay Marina Group
740 Handy Road
Mill Bay, BC
V0R 2P1**

PREPARED BY:

Madrone Environmental Services Ltd.

March 10, 2017

MADRONE ENVIRONMENTAL SERVICES LTD
1081 CANADA AVENUE • DUNCAN • BC • V9L 1V2
TEL 250.746.5545 • FAX 250.746.5550 • WWW.MADRONE.CA

DOSSIER 16 0175



Credits

Permit Holder/Field Director	Pat McCashin, B.A., RPCA
Field Director	Steven Hamm, B.A.
Field Crew	Andrew Hickok, PhD Irvine Canute (Cowichan Tribes) Adriane Underwood (Tsawout)
Report Authors	Steven Hamm, B.A. Andrew Hickok, PhD Pat McCashin, B.A., RPCA
Osteological Analysis	Andrew Hickok, PhD
Artifact and Faunal Analysis	Andrew Hickok, PhD Steven Hamm, B.A.
GIS and Graphics	Anna Jeffries
Report Production	Lisa Hooge

Management Summary

At the request of Mill Bay Marina Group, Madrone conducted an archaeological impact assessment (AIA) of the proposed Port Browning Marina Redevelopment. Fieldwork was conducted between October 4-7th and November 8-9th in 2016. The project area is located in the Port Browning area of Pender Island and is partially within the recorded boundaries of archaeological site DeRt-11.

AIA fieldwork was conducted with a crew of two to three Madrone archaeologists and two First Nations representatives. All work was conducted under Heritage Inspection Permit 2016-0323. The project area is within the asserted traditional territories of the Senchoten, Tsawout, Tseycum, Tsartlip, and Paquachin First Nations, and the Hul'qui'minum Treaty Group (HTG).

The landscape and presence and condition of DeRt-11 significantly varies across the project area and will be discussed below in four different areas (Figure 5, 5A-5C). A total of 120 subsurface tests were excavated with 47 tests being positive for cultural material. Thirty auger tests were excavated with three having positive results. Thirty-eight machine tests were excavated with nine having positive results. Fifty-two shovel tests were excavated with 35 having positive results. Four formed artifacts, a modest faunal collection, a cairn burial, and human remains were encountered.

All proposed development components located within the original and revised boundaries of archaeological site DeRt-11 (Figures 4 – 5c) with potential to cause subsurface disturbance will require archaeological monitoring under the authority of an Archaeological Site Alteration (ASA) permit pursuant to section 12 of the Heritage Conservation Act. For portions of the project area in Areas 3 and 4 that were not intensively tested due to the presence of fill and active service lines, we recommend a program of spot monitoring during construction.

Due to the presence of an intact cairn burial, intact archaeological deposits, and scattered human remains, we recommend project redesign to avoid any subsurface disturbances to Area 1 (Figure 5 and 5C).



TABLE OF CONTENT

1	INTRODUCTION	1
2	PROPOSED PROJECT	5
3	PROJECT AREA	7
3.1	BIOGEOCLIMATIC ENVIRONMENT	7
3.2	ETHNOGRAPHY	8
3.3	ARCHAEOLOGY	9
3.4	HISTORY	11
3.5	PREVIOUS ARCHAEOLOGY AT DERT-11.....	12
4	METHODS.....	13
5	RESULTS	14
5.1	STRATIGRAPHY	21
5.2	ARTIFACTS.....	21
5.2.1	STONE ARTIFACTS	22
5.2.2	BONE ARTIFACTS	22
5.3	FAUNAL REMAINS.....	23
5.4	HUMAN REMAINS	24
6	RESOURCE EVALUATION	25
6.1	SCIENTIFIC SIGNIFICANCE	25

MILL BAY MARINA GROUP

PAGE TOC-ii

AIA - PROPOSED PORT BROWNING MARINA REDEVELOPMENT

MARCH 10, 2017

6.2	PUBLIC AND ECONOMIC SIGNIFICANCE.....	25
6.3	ETHNIC SIGNIFICANCE	25
7	RECOMMENDATIONS.....	26
7.1	AREA 1 (FIGURES 5 AND 5C).....	26
7.2	AREA 2 (FIGURE 5):	26
7.3	AREA 3 (FIGURE 5):	26
7.4	AREA 4 (FIGURE 5 AND 5A):.....	27
7.5	REMAINING AREAS:.....	27
8	REFERENCES	28

APPENDIX A FAUNAL ANALYSIS - LIST OF ELEMENTS BY PROVINIENCE

LIST OF TABLES

TABLE 1 ARTIFACTS RECOVERED FROM DERT-11 AIA.....	22
TABLE 2. SUMMARY OF NISP FOR DERT-11 AIA.....	24

LIST OF FIGURES

FIGURE 1. PERMIT AREA - OVERVIEW.....	2
FIGURE 2. PERMIT AREA - MIDRANGE.....	3
FIGURE 3. PROJECT AREA	4
FIGURE 4. CONCEPTUAL DESIGN OF PROPOSED DEVELOPMENT	6
FIGURE 5. AIA RESULTS	15
FIGURE 5C. AIA RESULTS - DETAILED SITE MAP	18
FIGURE 6. PREVIOUS TESTING	18



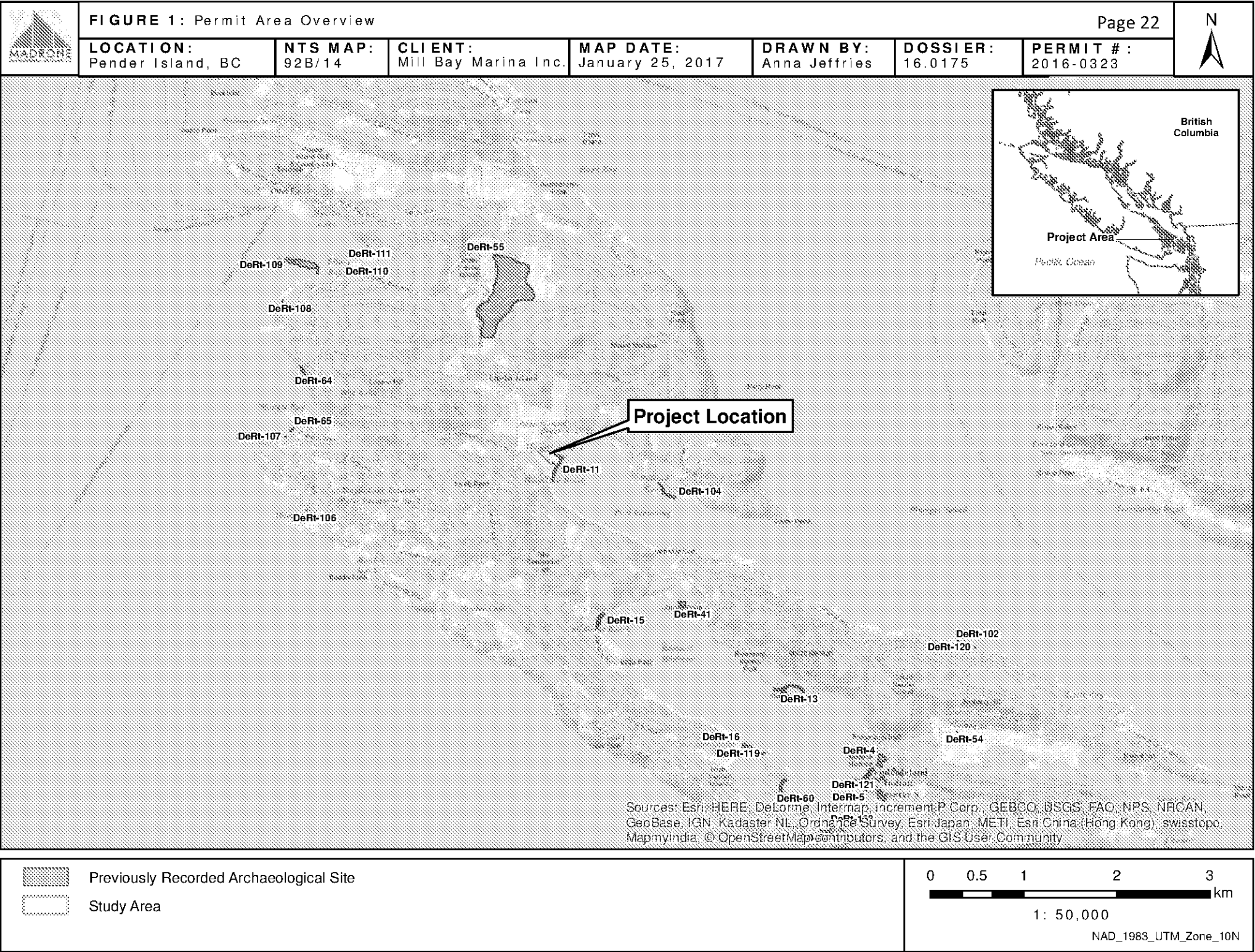
ARCHAEOLOGICAL IMPACT ASSESSMENT

Proposed Port Browning Marina Redevelopment – Heritage Inspection Permit 2016-0323

1 Introduction

At the request of Mill Bay Marina Group, Madrone conducted an archaeological impact assessment (AIA) of the proposed Port Browning Marina Redevelopment. Fieldwork was conducted between October 4-7th and November 8-9th in 2016. The project area is located in the Port Browning area of Pender Island and is partially within the recorded boundaries of archaeological site DeRt-11 (Figures 1 - 3).

AIA fieldwork was conducted with a crew of two to three Madrone archaeologists and two First Nations representatives. All work was conducted under Heritage Inspection Permit 2016-0323. The project area is within the asserted traditional territories of the Senchoten, Tsawout, Tseycum, Tsartlip, and Paquachin First Nations, and the Hul'qui'minum Treaty Group (HTG).







2 Proposed Project

The proposed redevelopment of the Port Browning Marina will have several development components that may come into conflict with archaeology site DeRt-11 (Figure 4). Project components include:

- * Minor functional improvement of pub and Renovation of Cafe, including covered deck.
- * Renovation of Cafe, including covered deck
- * Improvement of service areas and structures
- * New hidden service yard (garbage, recycling, etc.)
- * New entrance driveway from Oak Road located in a gap in the trees
- * Redesigned and 'Greened' parking areas
- * New 'Clubhouse' group building with swimming pool; washrooms accessible for events on the 'lawn'
- * Visitors Cabins (14 units) on high ground and away from shorelines
- * Visitor Lodge (9 units) on high ground overlooking the community
- * Preserve and enhance orchard (fruit to be used by Cafe)
- * Replace and enlarge marina moorage including new access ramp and breakwater improvement
- * Preserve and enhance shoreline trees and landscape
- * Maintain and enhance trees and landscape along Oak Road



3 Project Area

The proposed project is located at Port Browning on North Pender Island. Specifically, the project area includes the Port Browning Marina and Pub commercial operation and includes the lands legally described as:

4605 Oak Rd, Pender Island, BC V0N 2M1. 'Port Browning Marina' Lot A Plan 7982 Section 11, Plan 1 and 2, Zone C3(a) and 'Rural Lot' Lot 3 Except Part Plan 21227 Zone R

The subject properties contain a portion of a shell midden site recorded as DeRt-11, the "Hamilton Beach Site". Lot A contains a swimming pool and tennis court, located outside of the recorded archaeological site boundaries. A building that contains a pub, beer and wine store and a small restaurant, is situated on a small rise just on the edge of the recorded shell midden deposit. A dock access ramp situated just below the pub is anchored to a concrete pad that sits on top of the midden area. This leads to a marina facility that occupies two adjacent water lots. The majority of the archaeological site area (as previously recorded) is presently undeveloped and includes parts of a grassy field (much of which was created by infilling a small wetland (Simonsen and Somogyi 2006), an old orchard and a rocky point of land that forms the northeast corner of the Port Browning property.

3.1 Biogeoclimatic Environment

The project area is situated within the Coastal Douglas Fir (CDF) biogeoclimatic zone. This zone consists of a small coastal portion of southeastern Vancouver Island, several Gulf Islands and a stretch of the mainland coast (Nuszdorfer *et al.*, 1991: 82). The CDF zone is relatively dry with a mild annual temperature range and a diversity of biomass that occupies rock outcroppings along seaside, aquatic and forest habitats.

The CDF zone is characterized by the predominance of Douglas fir (*Pseudotsuga menziesii*), an understory of salal (*Gaultheria shallon*), and/or Oregon grape (*Mahonia aqua folium*). Other tree species common to this zone include western red cedar (*Thuja plicata*), grand fir (*Abies grandis*), Red alder (*Alnus rubra*) and, in drier areas, arbutus (*Arbutus menziesii*) and Garry Oak (*Quercus garryana*). Other less-common species include Sitka spruce (*Picea sitchensis*), western hemlock (*Tsuga heterophylla*), shore pine (*Pinus contorta*), bitter cherry (*Prunus emarginata*), bigleaf maple (*Acer macrophyllum*), western flowering dogwood (*Cornus nuttallii*), black cottonwood (*Populus trichocarpa*), and trembling aspen (*Populus tremuloides*) (Nuszdorfer *et al.*, 1991: 82).

Native terrestrial mammal species commonly found within the Coastal Douglas Fir zone include black-tailed deer (*Odocoileus hemionus*), black bear (*Ursus americanus*), and various other small land mammals. Sea mammals species in the zone include harbour seal (*Phoca vitulina richardi*), northern sea lion (*Eumetopias jubata*), California sea lion (*Zalophus californianus*), killer whale (*Grampus rectipinna*) and harbour porpoise (*Phocoena vomerina*).

Birds species found in this zone include the pileated woodpecker (*Dryocopus pileatus*), blue grouse (*Dendragapus obscurus*), Stellar's jay (*Cyanocitta stelleri*), great blue heron (*Ardea herodias*), raven (*Corvus corax*), hooded merganser (*Lophodytes cucullatus*), mallard (*Anas platyrhynchos*), Canada goose (*Branta canadensis*) and glaucous gull (*Larus hyperboreus*) (Nuszdorfer *et al.*, 1991: 88-90).

Fish species in this zone include dogfish (*Squalus suckleyi*), skate (*Raja binoculata*), Pacific herring (*Clupea harengus*), rockfish (*Sebastes spp.*), flounder (*Atheresthes stomias*), halibut (*Hippoglossus stenolepis*), sole (numerous species), ling cod (*Ophiodon elongates*) and several species of sea perch (Mitchell 1971). Five species of salmon also reside in the ocean and rivers surrounding the study area depending on the season which include Chinook (*Onorhynchus tshawytscha*), chum (*O. keta*), Coho (*O. kisutch*), pink (*O. gorbuscha*) and sockeye (*O. nerka*).

The various species of shellfish in the zone include, butter clam (*Saxidomus giganteus*), littleneck clam (*Protothaca staminea*), horse clam (*Schizothaerus nuttalli*), basket cockle (*Clinocardium nuttalli*), mussel (*Mytilus edulis*), native oyster (*Ostrea lurida*), whelk (*Nucella sp.*), wrinkle purple (*Nucella lamellose*), periwinkle (*Littorina sp.*), limpet (*Lottidae*), and acorn barnacle (*Balanus nubilis*).

3.2 Ethnography

The study area is within the asserted traditional Coast Salish territories of the Senchoten speaking Saanich peoples, the Tsawout, Tseycum, Tsartlip, and Paquachin First Nations, and the Hul'qui'minum Treaty Group (HTG) First Nations, speakers of the Island dialect of the Halkomelem language (Suttles 1979, 1990; Thompson and Kinkade 1990).

Traditionally, the Coast Salish used rectangular cedar plank houses as primary dwellings. Villages often consisted of one or more houses as well as a number of smaller structures on the foreshore of sheltered bays or watercourses. Temporary shelters of rush mats were used in some locations for shorter seasonal occupations, and at some resource procurement locations permanent plank or bark covered houses were built (Barnett 1955; Suttles 1974, 1979, 1990). A wide variety of objects including tools, weapons and hunting

and fishing gear were manufactured by flaking stone (particularly basaltic and granodioritic stone), grinding stone (particularly slate, but also nephrite and others) and working bone, antler and shell (Mitchell 1990; Suttles 1990). A variety of plant materials were extremely important, most prominently, red cedar (*Thuja plicata*), which was employed to manufacture houses, canoes, boxes, clothing, bags, baskets and mats, among other items (Barnett 1955; Turner 1998). Blankets and clothing were sometimes woven from hair of dogs (*Canis familiaris*), mountain goats (*Oreamnos americanus*) and other materials, such as stinging nettle (*Urtica dioica*) fibres. Nettle fibres were also used for textiles and cordage (Schulting 1994; Turner 1995; Wells 1966).

Among the Coast Salish, fishing was the principal economic activity, particularly of salmon (*Oncorhynchus sp.*), but also Pacific herring (*Culpea pallasii*), flat fish and many other fish species. Clam gardens and other methods of aquaculture were practiced, birds were taken, particularly waterfowl, and both land and sea mammals were hunted by a variety of methods, particularly deer, elk and seal (Barnett 1955; Monks 1987; Suttles 1990; Groesbeck *et al.* 2014; McKechnie *et al.* 2014). Plant foods, particularly blueberry, cranberry and wapato were also gathered for subsistence (Pojar and Mackinnon 1994; Turner 1974, 1995). Coast Salish followed an annual round, congregating in the ceremonial season at winter villages and dispersing to hereditarily owned resource sites throughout their territory the remainder of the year. Ethnographically three social classes were recognized: a large upper class of nobility with rights and titles, and sacred and ritual knowledge; smaller commoner class; and a small number of slaves owed by the most wealth households. A detailed ethnographic description of Coast Salish lifeways can be found in Barnett (1955), Suttles (1974, 1979, 1990), Ham (1982), and others.

3.3 Archaeology

Archaeological research in the Strait of Georgia region dates back to the beginning of the twentieth century. The first culture history was produced by Charles Borden (1950) and Arden King (1950) using variations in artifact types over time, with subsequent syntheses produced by Borden (1968, 1970) and Mitchell (1971, 1990). A generalized sequence for the region has developed based on the works above, as well as Carlson (1960, 1970), Ham (1982), Ham *et al.* (1986), Matson (1976), Matson *et al.* (1980), and Mitchell (1971). Summaries were produced by Carlson (1983, 1990) and Mitchell (1990). Matson and Coupland (1995), Ames and Maschner (1999) and others have offered more recent syntheses, although there remains some disagreement on terminology. But there has not been a new synthesis to incorporate the research of the last twenty years.

In the early Holocene after the recession of the glaciers and initial peopling of the coast, a generalized coastal adaptation of small mobile groups of land and sea mammal hunter-gatherers and fishers is present coast-wide, called the Lithic stage (10,000-5500 BP; also commonly known as Old Cordilleran or Pebble Tool Tradition). By the mid-Holocene, with sea level and river gradients reaching near modern levels, and environmental stability, human populations grew and began to develop social differentiations and new regional adaptations. Four archaeological phases are commonly recognized in the Strait of Georgia region starting with Charles phase, beginning at approximately 5500 BP, followed by Locarno Beach phase (ca. 3300 BP), Marpole phase (ca. 2400 BP) and finally, the Strait of Georgia phase (ca. 1500 BP), presented in Figure X. Increasing population size and increasing social complexity are thought to continue to develop until reaching a plateau of complexity in Marpole phase, resembling the ethnographic populations, which Matson and Coupland (1995) termed the “Developed Northwest Coast Pattern.” However, others observe a climax in Marpole phase and subsequent decline in both population and complexity in the Strait of Georgia phase (Borden 1983; Carlson 1983, 2008; Angelbeck 2009; Angelbeck and Grier 2012; Hickok 2013).

Recently there have been calls for a re-evaluation of some of our current theories and interpretations. The emphasis on salmon may be overstated, and subsistence economies more diverse in the past, and the relationship between salmon, storage and cultural complexity more complicated (Monks 1987; Moss 2011; Groesbeck *et al.* 2014; McKechnie *et al.* 2014). Moss (2011) asserts that coastal mid-Holocene environmental stabilization varied by time and location, not coast-wide around 5000 BP (contra Fladmark 1975, 1982). The introduction of ground stone technology, beads and labrets at around 4000 BP, mid-Charles phase, coincides with a florescence of extravagantly beaded burials, suggesting a possible shift in culture and the beginnings of social hierarchies; possibly warranting a division of Charles phase (Curtin 1991; Ames *et al.* 2010; Cybulski 2011). Ames *et al.* (2010) also show that ground stone increases in proportion over time but does not replace flaked stone. Clark (2010) demonstrated that ‘Marpole’ was focused in areas that are traditionally Halkomelem speaking and limited in time and space. The decline in the Strait of Georgia phase may have been brought about by a possible epidemic of treponemal infection in the preceding phases not previously accounted for in the archaeological interpretation of the region (Hickok 2013). Treponemal infection produces syphilis and, when congenital, can severely impact fertility rates (Curtin 2005; Hickok 2013). The early Strait of Georgia phase appears to have been a time of increased conflict, which Angelbeck (2009; Angelbeck and Grier 2012) advocates is a period of heterarchy with competing chiefs, and suggests a return to elite hegemony in the last 500 years, suggesting another possible new phase (Schaepe 2009; Angelbeck 2009; Angelbeck and Grier 2012).

A very prominent archaeological site, Pender Canal (DeRt-1 and DeRt-2), is approximately two kilometers south of DeRt-11. Pender Canal was initially village site and cemetery in Charles phase and Locarno Beach phase, with over 150 burials including several elaborate burials with intricately carved antler spoons, thought to be evidence of ceremonial feeding of the dead. It was used as a camp site and portage site in subsequent phases – possibly because of the lack of ground water with the tilting of the Juan de Fuca plate (Carlson and Hobler 1993).

3.4 History

The earliest recorded European contact in the region is the 1791 Spanish expedition lead by Eliza. However, his writings indicate that the aboriginal population there told him they had already been visited by a large ship, and overland by traders with horses, and they showed him a few engraved brass bracelets. The next year, the Spanish once again visited region with an expedition led by Galiano (Wagner 1933:186-187). An English expedition led by Vancouver also arrived in 1792, establishing an observatory at Birch Bay (Newcombe 1923). Traveling down the river from the interior, Simon Fraser reached the mouth of the Fraser River in 1808 (Lamb 1960).

In the early 1820s the Hudson's Bay Company began exploring the region seeking beaver pelts. By 1827 they had established Fort Langley on the Lower Fraser above the head of the delta. The fort soon became a center for trade over a wide region (Suttles 1990:470-471). The Oregon Treaty of 1846 established the boundary between the United States and British claimed territory, and the British assert their sovereignty over British Columbia. In 1858 the Fraser River Gold Rush brought many people to the region, and in 1859 Governor James Douglas adopts a policy of "benevolent assimilation" of the aboriginal population (K. Carlson 2001). A history of the region from the indigenous perspective is presented in the volume *A Stó:lō Coast-Salish Historical Atlas* (K. Carlson 2001).

In 1902-1903, the isthmus between North and South Pender Island was removed to allow marine traffic passage to Vancouver Island, creating Pender Canal. The isthmus was the location of an indigenous portage site and camp site ethnographically, and a village site archaeologically (DeRt-1 and DeRt-2), as noted above. Extensive erosion of the site occurred subsequently and approximately 80% of the archaeological sites were excavated by Roy Carlson and Philip Hobler (1993) and the Simon Fraser University archaeology field school between 1984 and 1987.

3.5 Previous Archaeology at DeRt-11

An archaeological excavation was carried out at DeRt-11 in the summer of 1971. This project was directed by Simon Fraser University Graduate Student, Margo Chapman and included the systematic excavation of five, 1 x 2 meter "test pits" dug to depths from 40 centimeters to 110 cm. (Chapman, 1971; 61). This project was undertaken in response to a proposal to construct a new marina and resort complex, as it was feared that "...the site was in immediate danger of being destroyed" (Chapman, 1971; 59). Prior to the 1971 excavation project, a small artifact collection and some human skeletal remains from the site had been collected by local residents and deposited with the B.C. Provincial Museum, as documented in both the 1974 Site Record Form and in Chapman's 1971 report (Chapman, 1971; 61).

Chapman's 1971 excavation project focused on a small area at the south end of Lot A, in the vicinity of the old orchard (Figure 6). Five excavation units were situated just in from the shoreline in an area found to contain the deepest shell midden deposits within those portions of the site within Lot A. Chapman's excavation project examined approximately 8 cubic meters of archaeological deposits that yielded a total of 20 artifacts - mostly bone and antler items. Only two stone artifacts were recovered, along with a small collection of faunal bone remains. Most of these items were found in three of the five units excavated and Chapman concludes that the shell midden in this part of Lot A extended only about 12 meters inland from the shoreline (Chapman, 1971; 64). She also concluded that, although the Hamilton Beach Site was "extensive", it was not "very productive" based on the small yield of artifacts and other archaeological remains from her five excavation units (Chapman, 1971; 64).

Following Chapman's 1971 excavation project, the only archaeological interest shown in the Hamilton Beach Site is contained in some correspondence from August of 1979, between Lou Henshaw and the Provincial Archaeologist's Office in Victoria (see Appendix I for copies). This correspondence related to plans for future land development by the property owners and what potential impact these developments might have on the archaeological site. Of note was a proposal to in-fill a small wetland (or "marsh" area) that was located just inland of a shoreline berm feature (see Diagram 1). An August 30th 1979 letter from the Provincial Archaeologist to Lou Henshaw indicates that the former had no problem with the in-filling of the marsh, "...so long as the narrow strip of midden deposit to the seaward side of the marsh area can be left undisturbed". The marsh area was subsequently filled in with up to 8 feet of local soil, gravel and clay material in 1979 or 1980 (Simonsen and Somogyi 2006).

In 2006 Bjorn Simonsen conducted an AIA on portions of the subject property (Figure 6; Simonsen and Somogyi 2006). This study found that archaeological deposits were not as extensive or as contiguous as previously recorded. One artifact and a small amount of faunal material were collected during this study.

4 Methods

Prior to conducting the assessment a search for archaeological sites was conducted using RAAD (through the Archaeology Branch), which provides detailed geographical information for previously recorded archaeological sites and some archaeological potential models in British Columbia. An extensive background review of published and non-published ethnographic, archaeological and geological studies was also completed.

The AIA was conducted utilizing machine and shovel subsurface testing, as well as an intensive pedestrian survey of the proposed project area. While the initial intent was to conduct subsurface testing in a 5 – 10 m interval grid of areas to be impacted by the proposed development, the presence of active subsurface utilities and areas covered by buildings and asphalt limited subsurface testing methods. Areas with no proposed project impacts were not inspected.

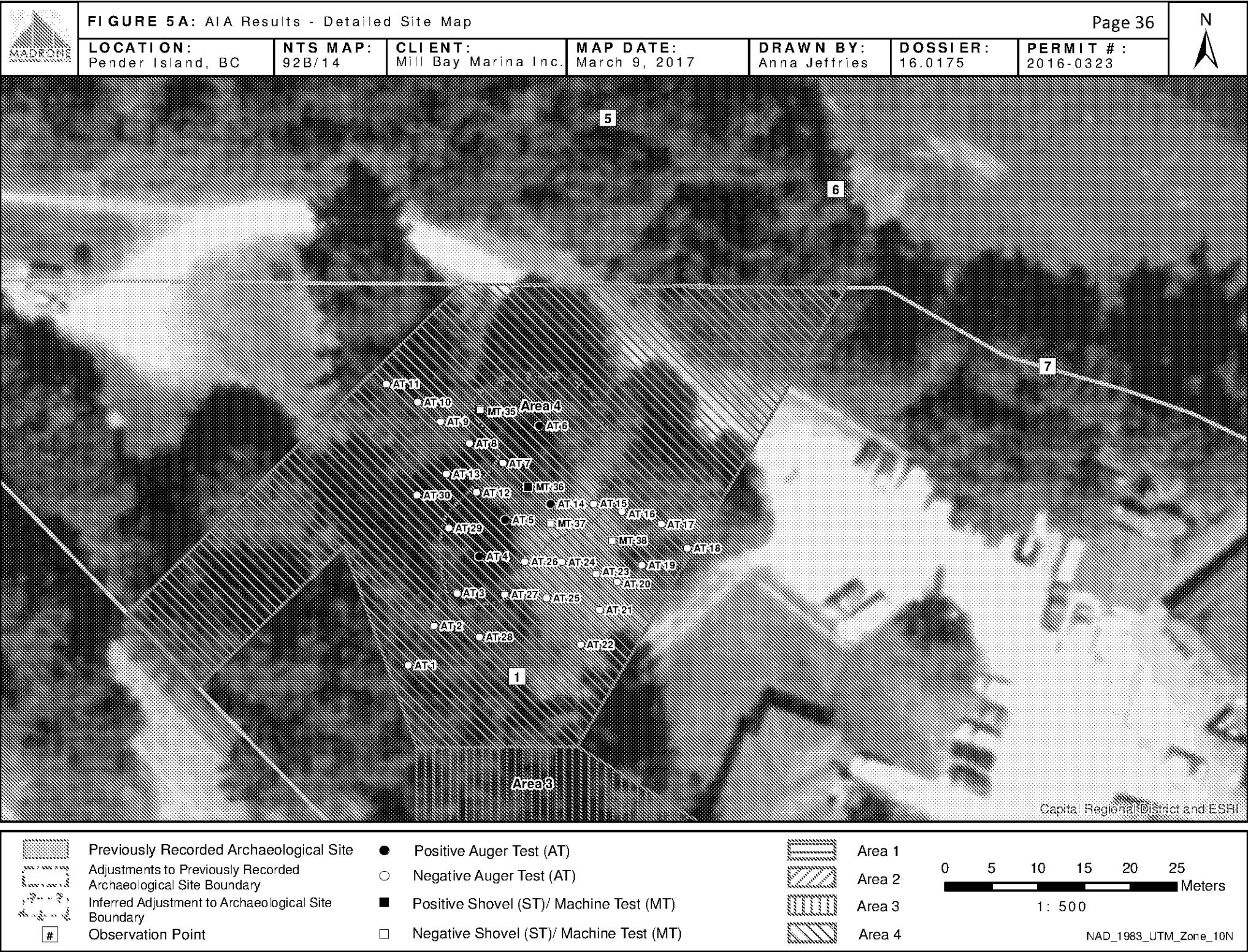
Shovel tests measured 40 x 40 cm and machine tests measured 1.2 x 1 m. Subsurface tests were excavated to culturally sterile deposits unless utilities and large boulders prevented deeper testing. All deposits with potential to contain archaeological materials were screened 100 %. A log of stratigraphy, field notes and photos were maintained throughout the project.

Faunal remains were analyzed utilizing the comparative collection at Simon Fraser University and were screened for human remains by Osteologist Dr. Andrew Hickok. When human remains were encountered the Archaeology Branch and appropriate First Nations were notified. In discussions with the Archaeology Branch and First Nations it was decided that the remains were to be reburied, with minimal analysis, in a location with little potential to be disturbed by future developments.

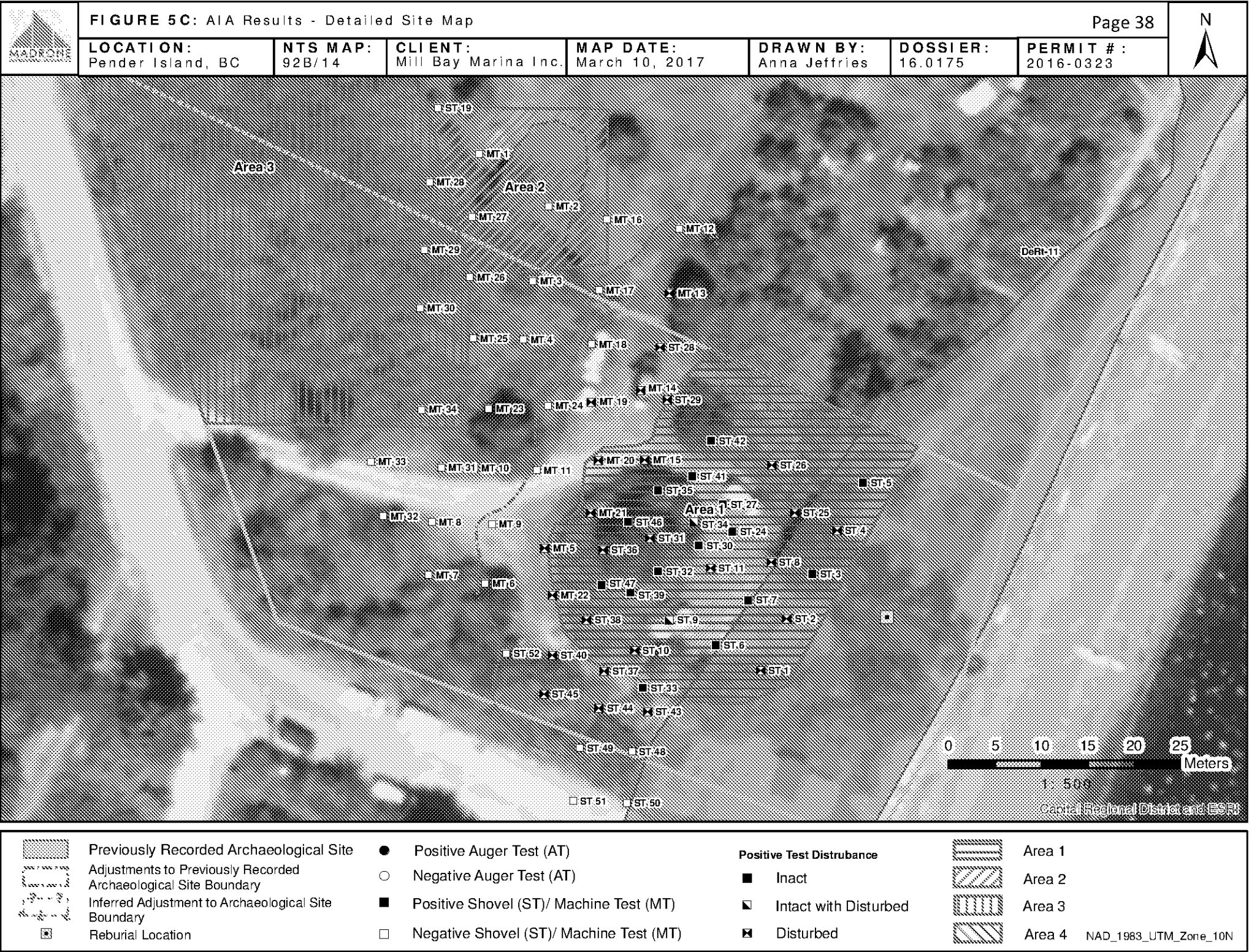
5 Results

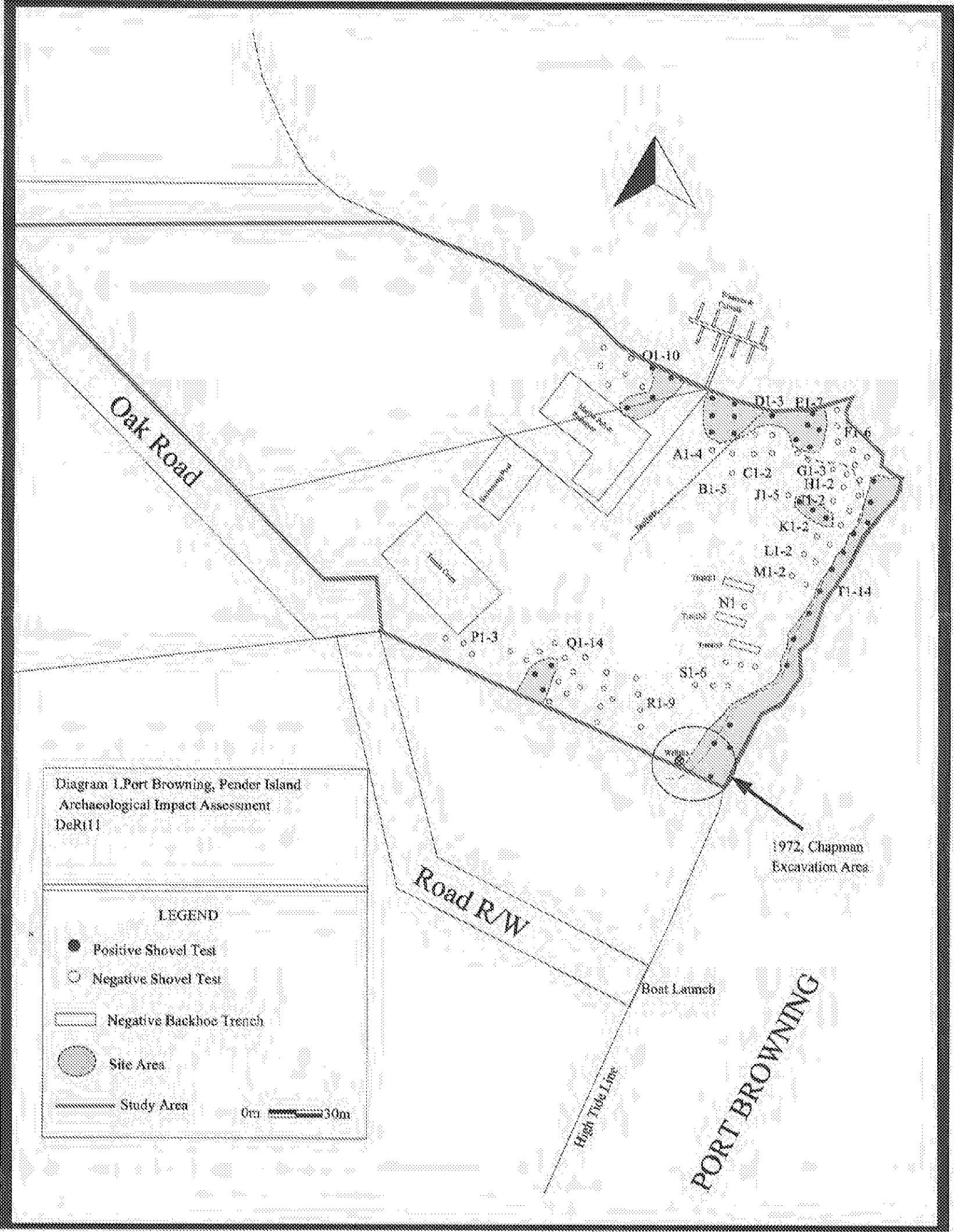
The landscape and presence and condition of DeRt-11 significantly varies across the project area and will be discussed below in four different areas (Figure 5, 5A-5C). A total of 120 subsurface tests were excavated with 47 tests being positive for cultural material. Thirty auger tests were excavated with three having positive results. Thirty-eight machine tests were excavated with nine having positive results. Fifty-two shovel tests were excavated with 35 having positive results.











Area 1

This portion of the project area is on a small raised level landform and has been previously impacted by an old farmhouse, access roads and a well (Figure 5C). Investigations extended the boundaries of DeRt-11 by 60 m NE/SW and 35 m NW/SE.

Subsurface testing in this area revealed a thin layer of disturbed deposits overlying a thin layer of intact archaeological deposits. Four formed artifacts were collected from this area. An intact cairn burial was encountered in ST 27 and scattered human remains were also encountered throughout this area. Disturbed archaeological deposits extend beyond the landform that area 1 consists of but had no human remains or artifacts present.

Area 2

This portion of the project area is where a previous study identified a small patch of redeposited archaeological materials (Figure 5C). Six MTs were excavated with negative results. As no development components are proposed for this area intensive testing was not undertaken.

Area 3

This portion of the project area consists of terrain sloping 20-40 degrees to the northeast (Figure 5, 5A-5C). Previous disturbances to this area include several active service lines in the southern portion, the construction of Oak Road, a tennis court, two small homes and a parking lot. From observation points 3-4 the road has been cut from the slope. Observation point 2 has natural exposures under an existing house confirming that native sediments have been stripped away and leveled.

From the northeast of this area to the pub has been stripped of sediments and capped with fill and pavement for construction of the parking lot, tennis court, and pub.

Area 4

The upper northwestern portion of the property is a relatively level landform that has been subjected to significant previous disturbances (Figure 5A). Much of the area has been graded for gravel roads, a septic field, various service lines, and a pump station. The eastern portion of this area has been previously excavated and leveled from observation point 1 to the east and northeast, which would have removed any archaeological deposits that may have been present in the past. Observation points 5-7 have large areas of exposures illustrating that this portion of the project area consists of 15-40 cm of clays and

silts overlying bedrock. A small pocket of redeposited midden was identified in MT 36, mixed with imported fill. The heavy presence of fill and active service lines consistently prevented subsurface testing from reaching basal deposits resulting in an ambiguous boundary defining the extent of redeposited materials.

5.1 Stratigraphy

Area 1

The general stratigraphy in this area consists of 5-10 cm of duff overlying 10-40 cm of sandy loam shell midden with the upper 10-20 cm often being disturbed deposits. Culturally sterile compact silts were encountered between 30-50 cm below surface and overlying bedrock.

Area 2 and 3

The general stratigraphy of this area consists of 7-10 cm of duff overlying 30 cm of disturbed brown loam. Culturally sterile silts were encountered 30-50 cm below surface and overlying glaciomarine clays extending to 1.5 m below surface.

Area 4

The general stratigraphy of this area consists of 15-40 cm of clays and silts overlying bedrock. The cultural deposits observed are mixed with imported fill and were encountered 10-33 cm below surface.

5.2 Artifacts

Four formed artifacts were recovered, but no debitage.

Table 1 Artifacts Recovered from DeRt-11 AIA

Artifact Number	Artifact Type	Material	Context	Depth (cm dbd)	Completeness	Length (mm)	Width (mm)	Thickness (mm)	Weight (g)	Notes
DeRt-11: 64	Metapodial splinter awl	deer bone	St 5	20-30	complete	104.2	26.4	17.0	13.7	proximal deer metapodial
DeRt-11: 65	Tear-shaped biface	fine-grained basalt	ST 7	~30	complete	72.4	31.2	11.7	23.5	roughly finished
DeRt-11: 66	Bone point	bone	ST 9	~5	distal half?	72.1	5.9	4.1	1.3	unipoint or bipoint indeterminate; 2 pieces, refit
DeRt-11: 67	Unilaterally barbed fixed point	bone	ST 47	30-76	proximal half	86.2	12.1	6.7	8.0	open barbs

5.2.1 Stone Artifacts

Tear-Shaped Bifaces (n=1)

DeRt-11: 65 was recovered from ST 7, approximately 30 cm db. Tear-shaped bifaces are characterized as widest below the horizontal center with one pointed end, and with excurvate blade edges and a convex base (Loy and Powell 1977). Tear-shaped bifaces have been reported from assemblages from Charles phase through Marpole phase, and occasionally in Gulf of Georgia phase assemblages (Ham 1982; Mitchell 1990; Keddie 2008). This basalt biface is made from fine-grained basalt but roughly finished. DeRt-11: 65 measures 72.4 mm long, 31.2 mm wide, 11.7 mm thick, and weighs 23.5 g.

5.2.2 Bone Artifacts

Metapodial Splinter Awl (n=1)

DeRt-11: 64 was recovered from ST 5, between 20 to 30 cm db. Metapodial awls are manufactured from the metapodial bones of ungulates with some evidence of the proximal or distal features that enable identification. Metapodials were often used; the flared ends provide a good grip and the straight shaft a useful working end. This metapodial awl is formed from a proximal deer metapodial splinter and roughly finished with a blunt tip. DeRt-11: 64 measures 104.2 mm long, 26.4 mm wide, 17.0 mm thick, and weighs 13.7 g.

Small Bone Point (n=1)

DeRt-11: 66 was recovered from ST 9, approximately 5 cm dbs. Small bone points are generally manufactured from mammal bone, but also bird bone, and were used for a variety of purposes from fishhook barbs and herring rakes to gorges and leisters (Mitchell 1990). This bone point is made from mammal bone and is broken. It is not clear if it is a unipoint or a bipoint, or the specific intended function. DeRt-11: 66 measures 72.1 mm long, 5.9 mm wide, 4.1 mm thick, and weighs 1.3 g.

Unilaterally Barbed Fixed Point (n=1)

DeRt-11: 67 was recovered from ST 47, between 30 to 76 cm dbs. Unilaterally barbed bone points are large points with one or more triangular, beaked, or enclosed barbs on one margin, fixed firmly to a shaft (McMurdo 1972; Loy and Powell 1977). These points were often used for arming fishing spears and are reported in Marpole phase and Gulf of Georgia phase assemblages (McMurdo 1972; Mitchell 1990). This unilaterally barbed point fragment is of the proximal end, which is spatulate and tapered, with small beaked barbs. DeRt-11: 67 measures 86.2 mm long, 12.1 mm wide, 6.7 mm thick, and weighs 8.0 g.

5.3 Faunal Remains

A small faunal sample of 96 vertebrate skeletal elements from at least 10 taxa was recovered from shovel tests and machine tests during the subsurface investigation program. All elements were identified to the most specific taxon possible with reference to the Simon Fraser University, Department of Archaeology comparative faunal collection. A complete list of elements by provenience is presented in Appendix A. Age and taphonomic changes are also noted. The number of identified species present (NISP) is in provided Table 2. Scientific names of taxon used can be found in Banfield (1974) and Godfrey (1979), for mammals and birds, respectively, and in Eschmeyer *et al.* (1983) and Hart (1983) for fish. The vertebrate sample was divided into land mammal, sea mammal, birds, and fish. No column samples were taken but invertebrates, including butter clams (), horse clams (*Schizothoenus capax*), bay mussel (*Mytilus edulis*), native oyster (), and gastropods were observed.

Five taxa of land mammals were collected, as well as 17 unidentifiable mammal elements. These are, in the order of element frequency: mule deer (n=33), rat (n=10), elk (n=7), dog (n=5), and cow (n=4); however, the rat elements are from a single immature individual and likely incidental. The cow bones exhibit bandsaw cuts, as does one deer tibia. Two deer elements display burning and one has carnivore gnawing marks. One sea mammal element was recovered: a dolphin temporal petrous; bringing the total number of

identified mammal taxa to six. Ten bird elements were collected, including duck family (n=3), and chicken (n=2). Two taxa of fish, salmon (n=6) and herring (n=3), were identified, and 10 unidentifiable fish elements were also recovered.

This vertebrate assemblage is typical of Northwest Coast collections, predominated by deer, elk, and salmon, with some sea mammal and waterfowl. Indicators of seasonality are sparse, but include salmon – mostly taken in the late summer and fall, but also other times of year, depending on the species – and herring, taken in March. The presence of chicken bones, cow bones and bandsaw cut elements indicate historic occupation of the site.

Table 2. Summary of NISP for DeRt-11 AIA

Common Name	Taxon	Total	Percent
Cow	<i>Bos</i> sp.	4	4.2
Elk	<i>Cervus elaphus</i>	7	7.3
Mule deer	<i>Odocoileus</i> sp.	33	34.4
Dog	<i>Canis familiaris</i>	5	5.2
Rat	<i>Rattus</i> sp.	10	10.4
Unidentified mammal	Mammalia	17	17.7
Total land mammal		66	68.8
Pacific white-side dolphin	<i>Lagenorhynchus obliquidens</i>	1	1.0
Total sea mammal		1	1.0
Duck family	Anatidae	3	3.1
Chicken	<i>Gallus gallus domesticus</i>	2	2.1
Unidentified bird	Aves	5	5.2
Total bird		10	10.4
Salmon	<i>Oncorhynchus</i> sp.	6	6.3
Pacific herring	<i>Clupea pallasii</i>	3	3.1
Unidentified fish	Osteichthyes	10	10.4
Total fish		19	19.8
Total elements		96	100

5.4 Human Remains

Three scattered fragments of human skeletal remains were identified during shovel testing. A left distal radius was found *in situ*, in ST 34 (28 cm db), in intact deposits; the remainder of the radius appeared to continue into the east wall but was left undisturbed. A

tibia diaphysis fragment (with the anterior crest) was found in ST 7 (20-30 cm dbs), and a long bone fragment was found in ST 5 (30-40 cm dbs), in disturbed deposits. A minimum of one individual is represented, but likely more individuals are present and scattered due to past disturbance.

A rock feature was identified in ST 27 at 30 cm dbs, consisting of tabular sandstone, similar to subsurface burial cists and rock features reported in Locarno Beach phase components at Pender Canal and other sites (Carlson 1991; Carlson and Hobler 1993; Matson and Coupland 1995).

6 Resource Evaluation

The condition of DeRt-11 varies across the project area and the significance of deposits is discussed below by area.

6.1 Scientific Significance

Area 1

The presence of intact deposits, burial features, scattered human remains, and formed artifacts can enhance the understanding of the culture history of the area. Scientific significance is considered to be high.

Area 4

Cultural deposits in this area are highly disturbed and mixed with imported fill. These deposits are unlikely to significantly contribute to the archaeological record. Scientific significance is considered to be low.

6.2 Public and Economic Significance

The assessed portion of DeRt-11 in the project area consists of shallow deposits that are not observable without excavation. The potential to use the site in situ to further understanding and educate the public and facilitate cultural tourism is considered low.

6.3 Ethnic Significance

All portions of DeRt-11 in the project area, regardless of scientific significance, have the potential to contain human remains. This along with the proximity to natural resources

and other archaeological sites indicate the significance of DeRt-11 to First Nations communities is considered to be high.

7 Recommendations

All proposed development components located within the original and revised boundaries of archaeological site DeRt-11 (Figures 4 – 5c) with potential to cause subsurface disturbance will require archaeological monitoring under the authority of an Archaeological Site Alteration (ASA) permit pursuant to section 12 of the *Heritage Conservation Act*. Specific recommendations for individual areas are discussed below.

7.1 Area 1 (Figures 5 and 5c)

Area 1 consists of the raised and level landform within DeRt-11 (Figure 5c). As this area contains intact archaeological deposits, an intact cairn burial feature, scattered human remains, and formed artifacts; this section is considered to have high significance. Madrone highly recommends project redesign so that Area 1 is not subject to any potential impacts. When providing notifications to the applicable First Nations about the presence of an intact burial and human remains they informed us they are opposed to development of this area. If project redesign/avoidance is not feasible Madrone recommends consultation with the applicable First Nations and Archaeology Branch.

Project components within portions of DeRt-11 presented in Figure 5c that are outside of Area 1 can proceed with archaeological monitoring under an ASA.

7.2 Area 2 (Figure 5):

No archaeological deposits associated with DeRt-11 were identified in Area 2 during the AIA. Intensive subsurface testing was not conducted in this area as no development components are proposed here. If development plans change to include potential subsurface disturbance in this area, Madrone recommends archaeological monitoring under an ASA.

7.3 Area 3 (Figure 5):

Due to the presence of buried active service lines, dense brush, and areas capped by asphalt and/or fill, Area 3 was not subject to intensive testing. Inspections of natural sediment exposures, the surrounding landscape, and discussions with the previous owner suggesting extensive subsurface disturbance in the past all suggest low potential to contain

archaeological materials. However, there is potential for redeposited and/or discrete pockets of archaeological materials to be present.

Madrone recommends including Area 3 in the ASA with a program of spot monitoring during initial subsurface disturbances to confirm the absence/presence of archaeological materials.

7.4 Area 4 (Figure 5 and 5a):

Due to the presence of buried active service lines, septic field, and areas capped by asphalt and/or fill, subsurface testing was not able to sufficiently assess the vertical and horizontal extent of DeRt-11 in Area 4. Based on our observations we suspect this portion of DeRt-11 to be a discrete pocket of redeposited shell midden.

Madrone recommends that archaeological monitoring be conducted under an ASA for any proposed development components with potential to cause subsurface disturbance in Area 4.

7.5 Remaining Areas:

The remaining project components not addressed above are in areas assessed as having low archaeological potential. No further archaeological work is required in these areas as currently designed in Figure 4 and 5.

8 References

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MILL BAY MARINA GROUP

PAGE 29

AIA - PROPOSED PORT BROWNING MARINA REDEVELOPMENT

MARCH 10, 2017

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PAGE 30

AIA - PROPOSED PORT BROWNING MARINA REDEVELOPMENT

MARCH 10, 2017

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PAGE 31

AIA - PROPOSED PORT BROWNING MARINA REDEVELOPMENT

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MILL BAY MARINA GROUP

PAGE 32

AIA - PROPOSED PORT BROWNING MARINA REDEVELOPMENT

MARCH 10, 2017

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memini. Nescio. et susceperunt me consolationes miserationum tuarum, sicut audiui a parentibus carnis meae, ex quo et in qua me formasti in tempore; non enim ego memini.

Style “Main Body”: Nescio. et susceperunt me consolationes miserationum tuarum, sicut audiui a parentibus carnis meae, ex quo et in qua me formasti in tempore; non enim ego memini.

e.



///NOX ///

Faunal Analysis - List of Elements by Provincience

MILL BAY MARINA GROUP

PAGE I

AIA - PROPOSED PORT BROWNING MARINA REDEVELOPMENT

MARCH 10, 2017

Shovel Test 320-30 cm dbs

Dog, rib fragment
Unidentifiable mammal, misc. fragment
Unidentifiable bird, shaft fragment
Salmon, 2 spine fragments
Fish bone, cranial fragment

30-40 cm dbs

Dog, caudal vertebra

Shovel Test 410-20 cm dbs

Deer, shaft fragment
Unidentifiable bird (medium), shaft fragment

Shovel Test 520-30 cm dbs

Elk, shaft splinter fragment
Deer, 1 shaft fragment, 1 vertebra fragment
Unidentifiable fish bone, cranial fragment

30-40 cm dbs

Salmon, vertebra

Shovel Test 610-20 cm dbs

Deer, vertebra fragment
Unidentifiable mammal, 1 shaft fragment, 2 misc. fragment
Herring, vertebra

Shovel Test 720-30 cm dbs

Deer, 4 shaft fragments
Herring, 2 vertebra fragments
Unidentifiable fish, cranial bone
Unidentifiable bone (fish spine?)

Shovel Test 920-30 cm dbs

Unidentifiable fish, spine fragment

MILL BAY MARINA GROUP

PAGE II

AIA - PROPOSED PORT BROWNING MARINA REDEVELOPMENT

MARCH 10, 2017

Shovel Test 1020-30 cm dbs

Dog, left ilium fragment

Shovel Test 247-20 cm dbs

Cow, rib fragment (bandsaw cut)

Deer, 1 shaft fragment, 1 vertebra fragment

Unidentifiable fish, cranial bone

Shovel Test 26?

Porpoise, petrous temporal

Cow, rib fragment (bandsaw cut)

Elk, carpal

Deer, shaft fragment

Unidentifiable mammal, misc. fragment

Shovel Test 270-15cm dbs

Cow, rib fragment (bandsaw cut)

Unidentifiable mammal, 2 misc. fragments

Chicken, 1 sternum fragment, 1 coracoid fragment

Shovel Test 290-20 cm dbs

Elk, antler proximal beam (fragmented)

Deer, tibia (bandsaw cut)

Deer, 2 shaft fragments, 1 mandible fragment

Unidentifiable fish, bone fragment

Shovel Test 31~45 cm dbs

Elk, scapula fragment

50-60 cm dbs

Elk, tarsal

Shovel Test 340-10 cm dbs

Cow, rib fragment (bandsaw cut)

Unidentifiable mammal (large), 1 shaft fragment, 1 vertebra fragment

Deer, shaft fragment (burned)

Unidentifiable mammal (small), misc. fragment (calcine)
 Unidentifiable mammal (small), shaft fragment
 Rat (immature), 10 elements (including left innominate, femur, distal femur
 epiphysis, tibia, proximal tibia epiphysis, vertebra, scapula, radius,
 metatarsal
 and two shaft fragments
 Duck family (medium), 2 carpometacarpus fragments
 Unidentifiable bird (medium-large), shaft fragment
20-25 cm dbs
 Unidentifiable mammal (small), mandible fragment

Shovel Test 38~23 cm dbs

Unidentifiable mammal (medium-large), 5 shaft fragments, 1 misc. fragment

20-40 cm dbs

Unidentifiable mammal (small), misc. fragment

Unidentifiable fish, 2 misc. fragments

Shovel Test 4110-20 cm dbs

Elk (immature), radius distal epiphysis

Deer, 5 scapula fragments, 1 rib fragment, 1 humerus fragment (carnivore
 gnawing)

Unidentifiable bird (medium), shaft fragment

Shovel Test 426-11 cm dbs

Deer, vertebra fragment

Shovel Test 470-76 cm dbs

Deer, 5 shaft fragments

76-90 cm dbs

Dog, rib fragment

Unidentifiable mammal (small-medium), 2 shaft fragment

Unidentifiable mammal (immature, small-medium), vertebral epiphysis

Machine Test 5~22 cm dbs

Unidentifiable mammal (small-medium), shaft fragment

Machine Test 1210-20 cm dbs

Deer, lower incisor

Unidentifiable mammal (small-medium), 1 shaft fragment, 1 rib fragment

Salmon, 1 vertebra, 1 spine

Slump

Unidentifiable mammal (small-medium), 2 shaft fragments (bandsaw cut)

Unidentifiable mammal (small-medium), 2 shaft fragments (digested)

Duck family (medium), humerus fragment

Unidentifiable fish (small-medium), vertebra fragment

Backdirt

Unidentifiable mammal (small-medium), shaft fragment (bandsaw cut)

Unidentifiable mammal (small-medium), shaft fragment

Unidentifiable bird (medium), shaft fragment

Salmon, 1 vertebra

Unidentifiable, 4 misc. bone fragments

7m North of Machine Test 12Surface

Elk, tibia fragment

Machine Test 140-10 cm dbs

Deer, astragalus

Unidentifiable mammal (medium), shaft fragment

Machine Test 220-10 cm dbs

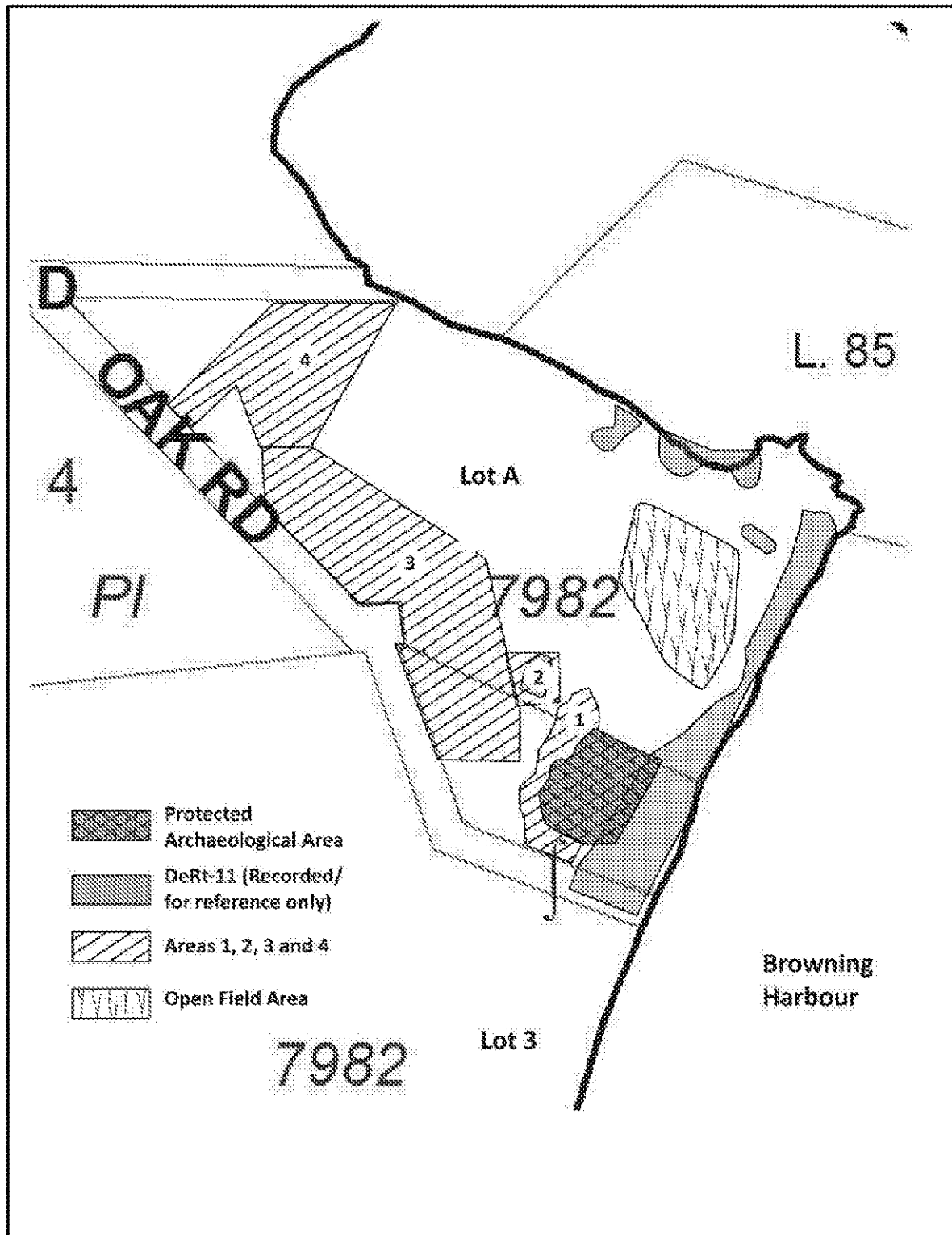
Deer, 1 vertebra fragment, 1 ulna fragment

Dog, talus

Unidentifiable mammal (small-medium), shaft fragment (bandsaw cut)

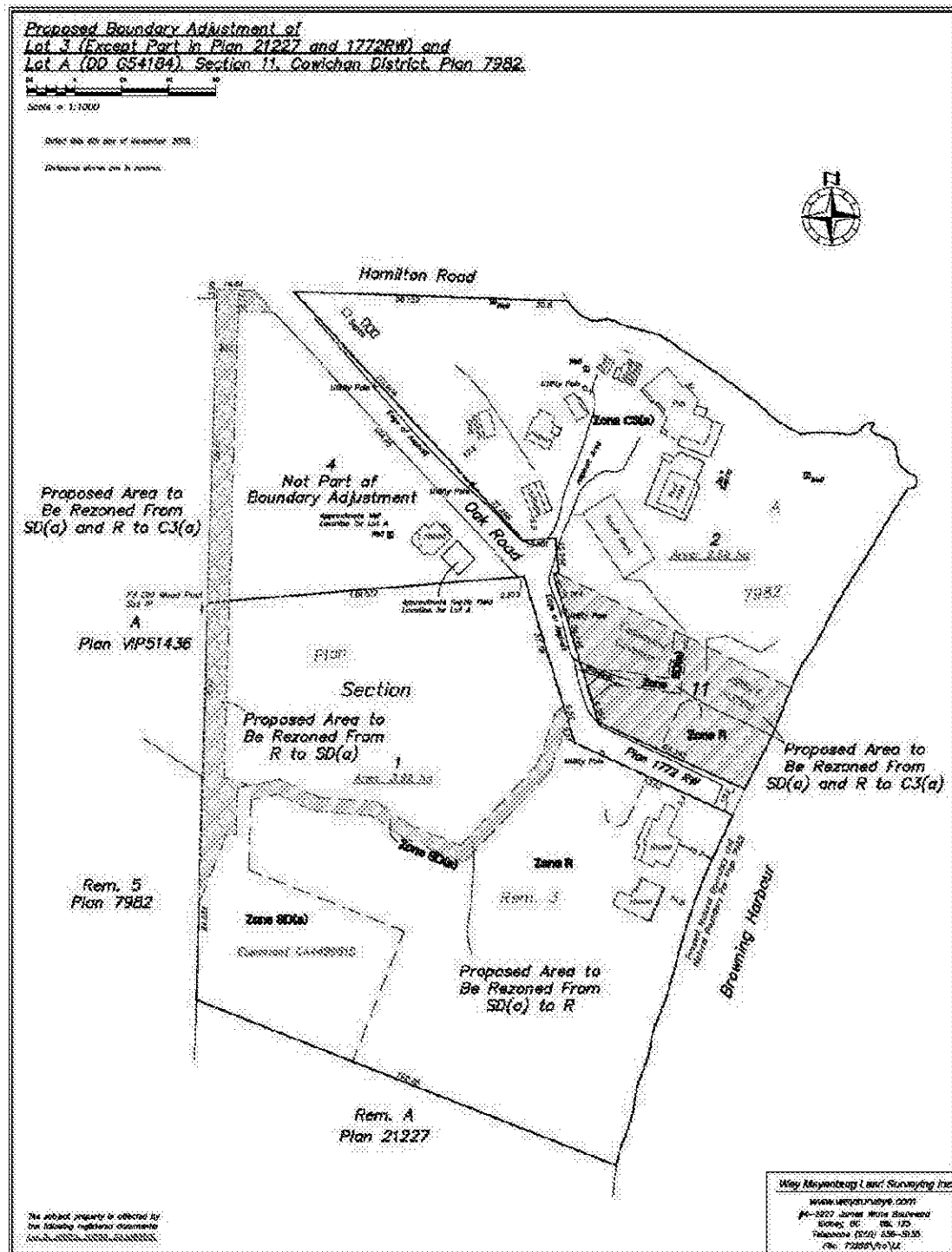
SCHEDULE "B"

Site Plan showing sub-areas



SCHEDULE "C"

Draft subdivision Plan



CONSENT AND PRIORITY AGREEMENT

WHEREAS **VANCOUVER CITY SAVINGS CREDIT UNION, INC.NO. FI 97** (the "Chargeholder") is the holder of a Mortgage and an Assignment of Rents (collectively called the "Charge") encumbering PID 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW (the "Lands") described in item 2 of the *Land Title Act* Form C attached hereto, which were registered in the Victoria Land Title Office under numbers **CA4670640** and **CA46709640**.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

1. The Chargeholder hereby consents to the granting and registration of the Section 219 Covenant and Section 218 Statutory Right of Way attached hereto (together, the "Covenant/SRW") and the Chargeholder hereby agrees that the Covenant/SRW shall be binding upon its interest in and to the Lands.
2. The Chargeholder hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Covenant/SRW over the Chargeholder's right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Covenant/SRW as if the Covenant/SRW had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

CONSENT AND PRIORITY AGREEMENT

WHEREAS **PORT BROWNING MARINA RESORT LTD., INC.NO. BC1037734** (the "Chargeholder") is the holder of an Option to Purchase and a Right of First Refusal (together, the "Charge") encumbering PID 005-636-591, Lot 3, Section 11, Pender Island, Cowichan District, Plan 7982, Except Part in Plan 21227 and 1772RW (the "Lands") described in item 2 of the *Land Title Act* Form C attached hereto, which were registered in the Victoria Land Title Office under numbers **CA4671308** and **CA4671309**.

THEREFORE THIS CONSENT AND PRIORITY AGREEMENT IS EVIDENCE THAT IN CONSIDERATION OF \$1.00 AND OTHER GOOD AND VALUABLE CONSIDERATION PAID BY THE TRANSFEREE TO THE CHARGEHOLDER:

1. The Chargeholder hereby consents to the granting and registration of the Section 219 Covenant and Section 218 Statutory Right of Way attached hereto (the "Covenant/SRW") and the Chargeholder hereby agrees that the Covenant/SRW shall be binding upon its interest in and to the Lands.
2. The Chargeholder hereby grants to the transferee described in item 6 of the *Land Title Act* Form C attached hereto priority for the Covenant/SRW over the Chargeholder's right, title and interest in and to the Lands, and the Chargeholder does hereby postpone the Charge and all of its right, title and interest thereunder to the Covenant/SRW as if the Covenant/SRW had been executed, delivered and registered prior to the execution, delivery and registration of the Charge.

IN WITNESS WHEREOF, the Chargeholder has executed and delivered this Consent and Priority Agreement by executing the *Land Title Act* Form D above which is attached hereto and forms part of this Agreement.

END OF DOCUMENT

**LAND TITLE ACT
FORM DECLARATION**

Related Document Number: CA6746425

PAGE 1 OF 3 PAGES

Your electronic signature is a representation that: you are a subscriber as defined by the Land Title Act, RSBC 1996, C.250, the original or where designated by the Director, a true copy of the supporting document is in your possession and that the summary of the material facts set out in this declaration accurately reflects the material facts set out in each supporting document and if a supporting document is evidenced by an imaged copy the material facts of the supporting document are set out in the imaged copy of it attached. Each term used in the representation and declaration set out above is to be given the meaning ascribed to it in Part 10.1 of the Land Title Act.

Guy William Patterson E7RNFV	Digitally signed by Guy William Patterson E7RNFV Date: 2018.05.03 16:37:10 -07'00'
---	--

Re: Notice Declining to Register Doc. No. CA6746425

I, Guy Patterson, Barrister and Solicitor, of Young, Anderson, 1616 - 808 Nelson Street, Vancouver, British Columbia, SOLEMNLY DECLARE that:

1. As a corrective declaration, pages 6 and 7 of the above-captioned document should be replaced with the revised pages 6 and 7, attached to this declaration.
2. Please accept the sum of \$73.08 as the prescribed fee for the remaining application for the priority agreements.

I make this solemn declaration, conscientiously believing it to be true and knowing that is of the same legal force and effect as made under oath.

Dated this 3rd day of May, 2018.

Guy Patterson
Barrister & Solicitor
YOUNG, ANDERSON
1616-808 Nelson Street
Vancouver, BC V6Z 2H2
Phone: 604-689-7400

NOTE:

A Declaration cannot be used to submit a request to the Registrar for the withdrawal of a document.

Fee Collected for Document: \$12.88

FORM_E_V24

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 6 OF 61 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Covenant

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of Way

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Granting the Covenant and Statutory Right of Way
herein priority over Mortgage CA4670639 and
Assignment of Rents CA4670640 (as to PID:
005-636-591)

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Granting the Covenant and Statutory Right of Way
herein priority over Option to Purchase CA4671308
and Right of First Refusal CA4671309 (as to PID:
005-636-591)

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 7 OF 61 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

5. TRANSFEROR(S):

LUCILLE HENSHAW [as to covenant and statutory right of way]

PORT BROWNING MARINA RESORT LTD. (Inc.No. BC1037734) [as to covenant, statutory right of way and priority]

VANCOUVER CITY SAVINGS CREDIT UNION (Inc. No. FI 97) [as to priority]

**LAND TITLE ACT
FORM DECLARATION**Related Document Number: **CA6746425**

PAGE 1 OF 3 PAGES

Your electronic signature is a representation that: you are a subscriber as defined by the Land Title Act, RSBC 1996, C.250, the original or where designated by the Director, a true copy of the supporting document is in your possession and that the summary of the material facts set out in this declaration accurately reflects the material facts set out in each supporting document and if a supporting document is evidenced by an imaged copy the material facts of the supporting document are set out in the imaged copy of it attached. Each term used in the representation and declaration set out above is to be given the meaning ascribed to it in Part 10.1 of the Land Title Act.

Guy William Patterson E7RNFV	Digitally signed by Guy William Patterson E7RNFV Date: 2018.05.08 11:40:40 -07'00'
---	--

Re: Second Notice Declining to Register Doc. No. CA6746425

I, Guy Patterson, Barrister and Solicitor, of Young, Anderson, 1616 - 808 Nelson Street, Vancouver, British Columbia, SOLEMNLY DECLARE that:

1. As a corrective declaration, pages 6 and 7 of the above-captioned document should be replaced with the revised pages 6 and 7, attached to this declaration.
2. Please accept the sum of \$214.74 as the prescribed fee for the remaining application for the statutory right of way and priority agreements.

I make this solemn declaration, conscientiously believing it to be true and knowing that is of the same legal force and effect as made under oath.

Dated this 8th day of May, 2018.

Guy Patterson
Barrister & Solicitor
YOUNG, ANDERSON
1616-808 Nelson Street
Vancouver, BC V6Z 2H2
Phone: 604-689-7400

NOTE:

A Declaration cannot be used to submit a request to the Registrar for the withdrawal of a document.

Fee Collected for Document: \$227.62

**LAND TITLE ACT
FORM E****SCHEDULE**

PAGE 2 OF 3 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Covenant

s. 219 Land Title Act

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Granting the Covenant herein priority over
Mortgage CA4670639, Assignment of Rents
CA4670640 (as to PID: 005-636-591)

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Granting the Covenant herein priority over Option
to Purchase CA4671308 and Right of First Refusal
CA4671309 (as to PID: 005-636-591)

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of Way

s. 218 Land Title Act

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Granting the Statutory Right of Way herein priority
over Mortgage CA4670639, Assignment of Rents
CA4670640 (as to PID: 005-636-591)

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Granting the Statutory Right of Way herein priority
over Option to Purchase CA4671308 and Right of
First Refusal CA4671309 (as to PID: 005-636-591)

**LAND TITLE ACT
FORM E**

SCHEDULE

PAGE 3 OF 3 PAGES

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

5. TRANSFEROR(S):

LUCILLE HENSHAW [as to covenant and statutory right of way]

PORT BROWNING MARINA RESORT LTD. (Inc.No. BC1037734) [as to covenant, statutory right of way and priority]

VANCOUVER CITY SAVINGS CREDIT UNION (Inc. No. FI 97) [as to priority]

9 May 2018 07:55

Number: FB517088 to
FB517090

ADDITIONAL APPLICATION NUMBER FORM

Number(s) required: **3**

Nature of Interest: **Statutory Right of Way and Two Priority Agreements**

Reason: **Not applied for in original application**

PID: **005-636-591 and 005-034-311**

Append to: **CA6746425**

Paper Intake

Add Package: (add as internal)

Scanning

Manage Image Versions to re-authorize:

Update Document Relationship:

Examiner: **kv**

Comments:



File No.: NP-DP-2021.7 (Brodie)

NP-BP-2021.20

DATE OF MEETING: January 27, 2022

TO: North Pender Island Local Trust Committee

FROM: Phil Testemale, Planner 2
Southern Team

COPY: Kim Stockdill, Island Planner

SUBJECT: Development Permit Application
Applicant: Arlynn Brodie
Location: 433 Arbutus Spur, Sidney Island

RECOMMENDATION

1. **That the North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2021.7 (Brodie)**

REPORT SUMMARY

The purpose of this report is to provide requested information to consider a Development Permit (DP) application.

The application is to permit development and land alteration within the **Sidney Island Geotechnical Development Permit Area (DPA)** on the property. Specifically, it will move the boundary of the geotechnical hazard area seaward (westward) based on a submitted geotechnical hazard assessment of the site. That will permit the construction of a dwelling partially within the DPA.

The specific objectives of the designation of the DPA are threefold:

1. *To protect the shoreline banks from development activities which exacerbate the natural erosion process;*
2. *To limit development in hazardous areas susceptible to erosion; and*
3. *To preserve the integrity of coastal processes and reduce cumulative impacts to the coastal shoreline.*

BACKGROUND

Background to this application, including one (1) previous staff report, is available as part of the December 4, 2021 agenda package (pp. 69-96) on the Islands Trust website:

<https://islandstrust.bc.ca/document/north-pender-ltc-regular-meeting-agenda-11/>

The applicants are requesting that the dwelling be sited a maximum of five (5) metres further west on the property within the DPA Area B (Figure 2). The proposed site was selected as it is a mostly cleared area that will involve no further tree removal. It will provide better views, and avoid damaging the root system of an old-growth Douglas-fir.

As required, a geological hazard assessment was submitted to the Islands Trust. “Geotechnical Assessment, 433 Arbutus Spur (Strata Lot 81) - Sidney Island” (Ryzuk Geotechnical, November 16, 2021 (Rev) – ‘Geotechnical Report’) is Attachment 1 which includes a guidelines checklist. In summary, the report and its recommendations complies with the DPA Guidelines.

The proposed Development Permit is Attachment 3.

Specific File Activity:

The DP application was most recently reviewed by the Local Trust Committee on December 4, 2021.

The following is a summary of key resolutions and file activity that have occurred for this application since the last report:

- At its December 4, 2021 regular meeting, the LTC noted that they would like to receive additional information in the form of a site visit, a discussion with the geotechnical engineer, and an updated topographic photo that shows the recent clearing of trees, and passed the following resolution:

NP-2021-101

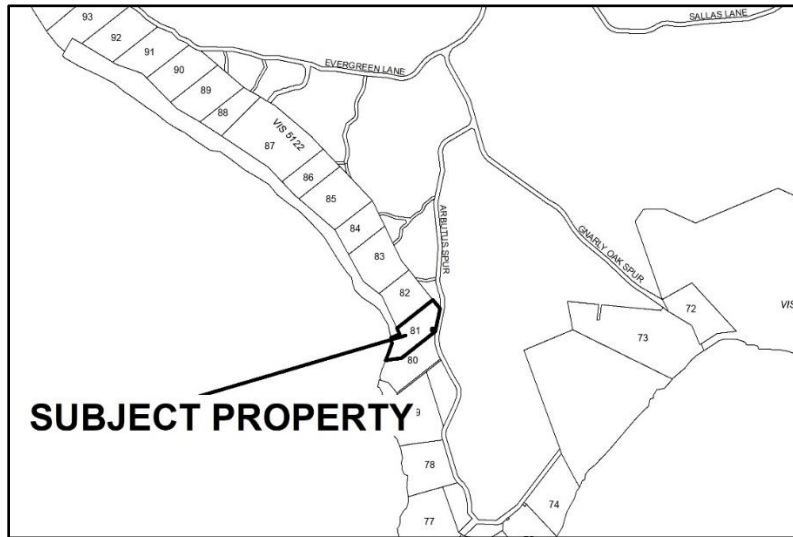
It was Moved and Seconded,

that the North Pender Island Local Trust Committee request that the applicant and Local Trust Committee participate in an onsite visit and a meeting geotechnical engineer, to be scheduled in the spring 2022.

CARRIED

- The applicant requested that the application to be given further consideration at the January 27, 2022 meeting, and, in order to facilitate the request, staff scheduled a site visit for January 6, 2022. That was cancelled due primarily to COVID 19 protocols.
- Staff discussed the concerns of the LTC with the geotechnical engineer and requested that he attend the January 27, 2022 meeting to answer LTC questions (*via Zoom*).
- Staff requested that the owner provide photographs of the property from the owner, primarily to show the location of tree removal done in the spring of 2021 (Attachment 2).

Figure 1 – Subject Property



Issues and Opportunities

Tree Removal and Retention

In response to the discussion about identifying tree removal at the December LTC meeting, the applicant has stated the following:

- All tree removal (by the current owner) was undertaken in the spring under the supervision of a certified Arborist (Mike Pryor);
- No trees were removed within the DP Area; and,
- Six (6) trees, varying in size from 0.3 m to 0.5 m, were removed on the proposed home site (outside of the DPA – see: Attachment 2).

Further, as recommended by the Arborist, the proposed siting preserves an old- growth Douglas-fir by locating the dwelling outside of the tree's drip line in order to leave the roots system undisturbed during the excavation for the foundation.

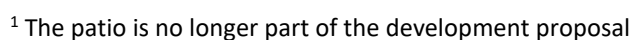
Sidney Island Geotechnical DP- General

The Geotechnical DPA is designated for the protection of development from hazardous conditions. The DPA coincides with a covenant (ES65752) which was registered at the time of subdivision of the island based on "Report of Geotechnical Investigation for Sidney Island Residential Subdivision" by Bruce McLeod of Levelton Engineering:

The report identifies that the soil/sandbanks forming the westerly and north-easterly shorelines, which are not protected by bedrock, as being steeper than the long term stable slope angle due to on-going toe erosion. The on-going toe erosion and slope flattening processes are resulting in a landward regression of the crest of the slope. The report summarizes that building sites should be located beyond the recommended setbacks, and that disturbance to the shoreline banks by storm water drainage, land alterations, vegetation disturbance, or other means should be avoided. (OCP, p 42).

The submitted Geotechnical Report analyzes the Levelton report (above), the geological conditions (makeup and slope) of the subject property, and the proposed development, including tree removal. The report concludes with the professional opinion that:

Figure 2 – Site Plan



Sidney Island Geotechnical DP- Guidelines

On page 4 of the Geotechnical Report a checklist is included that assesses and certifies compliance for each of the applicable DP Guidelines for the proposed development. That provides recommendations for any required tree removal, specifically the requirements for oversight by a certified Arborist and for stump retention, as well as for minimizing disruption of existing vegetation, and storm drainage management. All recommendations have been incorporated as conditions of the proposed DP.

Based on the foregoing and attached, it is staff's opinion that the application has met all of the applicable Guidelines for the DPA.

Rationale for Recommendation

The recommendation in support of approving issuance of the DP is based on the analysis of relevant policies and regulations, and, in particular DPA guidelines. In summary:

- The applicant has ensured that the consulting geotechnical engineer will be in attendance at the January 27, 2022 LTC meeting, and provided clarification on tree removal, including photographs;
- the application is based on a professional geotechnical assessment and addendum which meets all of the relevant objectives and guidelines for the DPA; and,
- all recommendations of that assessment have been incorporated into the proposed DPA.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation:

1. Request further information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request that the applicant submit to the Islands Trust
_____.

2. Deny the application

The LTC may deny the application. If this alternative is selected, the LTC SHOULD state the reasons for denial.

Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee deny application NP-DP-2021.7 (Brodie) for the following reasons _____.

NEXT STEPS

Submitted By:	Phil Testemale, Planner 2	January 18, 2022
Concurrence:	Robert Kojima, Regional Planning Manager	January 18, 2022

ATTACHMENTS

1. Geotechnical Assessment - Ryzuk Geotechnical (2021, revised November 16, 2021)
2. Site photographs (Owner)
3. Proposed Development Permit NP-DP-2021.7 (Brodie)



RYZUK GEOTECHNICAL
Engineering & Materials Testing

6-40 Cadillac Ave, Victoria, BC, V8Z 1T2 Tel: 250-475-3131 E-mail: mail@ryzuk.com www.ryzuk.com

November 16, 2021
File No: 10443-1

Arlynn Brodie

Attn: Arlynn (By E-mail: [REDACTED])

Re: Geotechnical Assessment
433 Arbutus Burr (Strata Lot 81) – Sidney Island, BC

As requested, we have revised our previous letter dated April 13, 2021, to clarify the location of the existing geotechnical covenant line and proposed offset discussed herein. Previously we attended the referenced site to assess the existing site conditions and potential geohazards related to the development of a single family residence. The assessment included a review of the Sidney Island Geotechnical Development Permit Area map, the Sidney Island Residential Subdivision geotechnical report prepared by Levelton Engineering Ltd., the architectural and survey plans provided to us, as well as our file information from previous projects in the area. Our associated observations, comments, and recommendations pertaining to potential geohazards on site are contained herein. The work has been undertaken in accordance with, and is subject to, the attached Terms of Engagement.

The site is irregularly shaped, with dimensions of approximately 63 m wide by 140 m long, and is bounded by Sidney Channel to the southwest, similar strata lots to the northwest and southeast, and common property/Arbutus Spur to the northeast. There is currently a geotechnical covenant line on the property, which is located approximately 30 – 40 m northeast of the southwest property line, that restricts building construction southwest of the line, denoted as Development Permit Area (DPA) 'B' per North Pender Associated Islands Official Community Plan, Bylaw No. 147. From our review of the drawings and our discussions, we understand that the proposed single family residence will be constructed northeast of this covenant line, but a concrete patio will be constructed extending up to 5 m west of the covenant line.

The site slopes steeply at the southwestern end, but is relatively flat in all remaining areas. The topography of the southwest end of the site slopes up at 80 degrees from the natural boundary at Sidney Channel for the lower 3 – 4 m of the slope, flattening to approximately 45 degrees to an elevation of approximately 12 m, becoming near vertical near the crest of the slope, and then sloping up from the crest at approximately 30 degrees, with locally steeper and flatter areas. To the northeast of the foreshore slope the site slopes down very gently from southwest to northeast, and from northwest to southeast.

The site is largely undeveloped and vegetated with low-lying brush and medium to large trees, except for the driveway (at the northeast end of the lot), and proposed building area near the center of the site. Trees had been removed in these areas, and the ground has been graded relatively flat.

Soil stratigraphy observed on the site and foreshore slope were generally as follows:

- 0.3 m thick surficial topsoil layer,
- 0 – 2 m of compact to dense brown/grey sand with silty and trace gravel and clay,
- 6 – 10 m of stiff to very stiff grey silty clay with sand and trace gravel, interbedded with more gravelly layers,
- 0.5 – 1 m of very dense brown/grey gravel with sand and cobbles, and
- 3 – 4 m of hard igneous bedrock, lightly to moderately fractured.

Some evidence of erosion was apparent within the soil portions of the slope, but erosion was less apparent at the base of the slope in the bedrock. Signs of erosion on the soil slope included fresh scarps near the crest leaving portions overhanging, a lack of vegetation on the steeper slope areas (particularly on the northern end of the slope), some loose eroded material on the slope face, a few small, toppled trees, and rivulets from rainfall/surface water. In addition to this, several trees directly above the crest of the slope, in the 20 – 30 degree sloping section, were observed to be “pistol butted” at the base, indicated past movement and creep of the slope towards the foreshore area. Long term groundwater monitoring was not undertaken at the site; however, because of the silt and clay present in the native site soils, we expect that perched water table conditions may be experienced during periods of heavy and/or prolonged rainfall.

The Levelton report noted previously suggests that the foreshore slope adjacent to the site did not experience any regression between 1976 and 2000. This is likely due to the bedrock at the base of the slope, which is much more resistant to erosion than the native soil slopes on similar waterfront lots to the north. North of this lot, the report suggests that the foreshore slope may be receding at a rate as high as 0.38 m per year.

To quantify the amount of seismically induced slope regression that may be experienced, we have conducted a slope stability analysis of the foreshore slope using RocScience Slide 2018 software (version 8.016) and limit equilibrium methodology. A design seismic event with a 2% probability of exceedance in 50 years was used for the analysis, and results indicate that regression encountered during the design seismic event would extend 20 m from the toe of the slope. This analysis considered safety factors of 1.5 and 1.1 under static and seismic conditions, respectively, in accordance with Engineers and Geoscientists of British Columbia Guidelines for Legislated Landslide Assessments for Proposed Residential Developments in BC.

Based on the above, we conclude that the site will not be at risk of erosional slope regression during the design life of the proposed single family residence, and that the seismically induced slope regression will be in the order of 25 m (measured from the toe of the slope). As such, we consider that the proposed patio and house can be constructed up to 5 m west of the current covenant line, without being at risk of seismic or erosion based geohazards. This offset will need to be laid out by a surveyor prior to construction.

To help prevent further increase in the rate of erosion at the toe of the slope, any surface water flow should be directed away from the slope crest, and discharged on the northeast portion of the lot. As well, no stormwater is to be discharged on the foreshore slope. It is recommended that footings be installed a minimum of 0.45 m below the ground surface for frost protection. Provided that the proposed foundations

bear on undisturbed native compact to dense brown sand, bearing resistances of 150 kPa (SLS) and 225 kPa (ULS) can be expected.

Based on the above, we consider that the current building site northeast of the covenant line is set back sufficiently from the slope to mitigate the geohazard risks from seismically induced slope regression resulting from a design seismic event with a 2% probability of exceedance in 50 years. As such, we consider the site safe for the use intended, that being single family residential use, in accordance with Section 56 of the Community Charter. Note that if the building setback from the slope crest is reduced from what is noted above, further review and analysis is required.

We hope the preceding is suitable for your purposes at present, however if you have any questions with respect to the above, please contact us.

Sincerely,
Ryzuk Geotechnical

Shane Haxton, P.Eng
Intermediate Engineer

Attachment - Terms of Engagement

SIDNEY ISLAND GEOTECHNICAL DEVELOPMENT PERMIT AREA

Checklist to be completed by Professional Geotechnical Engineer

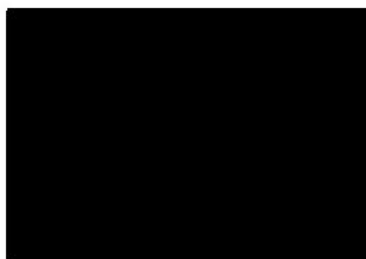
Guideline	Complies?			How has the guideline been met and/or how are you addressing the guideline?
	Yes	No	N/A	
1. A development permit should not allow any land alteration or other development activities to take place within any area identified by a geological hazard assessment as subject to a landslide or other geotechnical hazard with a probability in excess of 2% in 50 years.	X			The proposed development / land alteration, including, but not limited to, the construction of a residence and patio no more than 5 m southwest of the current covenant line will be outside of the area within Lot 81 subject to a landslide or other geotechnical hazard with a probability of excess of 2 % in 50 years.
2. All applications should include a geological hazard assessment from a qualified professional licensed in the Province of BC with experience in geotechnical engineering stating that the proposed land alteration or other development will not result in slope instability or other geological failure hazard with a probability in excess of 2% in 50 years. Where the geological hazard assessment report describes an area a suitable for development provided that specific measures are taken, the development permit should only allow the development to occur in compliance with the measures described in the report.	X			The proposed development / land alteration (as outlined in our Geotechnical Assessment Report of April 13, 2021), in our professional opinion, will not result in slope instability or other geological failure hazard with a probability of excess of 2 % in 50 years.
3. Any area proposed to be cleared and disturbed for development should be minimized and landowners are encouraged to retain existing trees and vegetation in areas that may be reasonably considered subject to erosion as determined by a qualified professional. Where a permit authorizes the cutting of trees, re-planting and maintenance of disturbed areas should be considered for inclusion as a condition of the permit. The introduction of non-native species should be avoided and the permit may require a landscaping plan and a security, in the form of an irrevocable letter of credit, for 125% the cost of re-planting as determined by a professional landscaper	X			We are not aware of any tree removal proposed at the site currently, other than that associated with construction of the new residence. For any tree removal done within Area 'B', we recommend that it is carried out by a qualified arborist, that ground disturbance is limited during removal, and that the stumps and roots outside of the proposed residence footprint are left in place.
4. All on-site drainage should be directed away from the shoreline or crest of slope	X			We understand that all onsite drainage will be directed away from both the shoreline and the crest of the slope.
5. Any land alteration or development involving the disturbance of the soil must be conducted in such a manner as to limit direct run-off into the sea and prevent the release of sediment towards the shore.	X			We do not anticipate any significant run off into Sidney Channel and release of sediment towards the shore resulting from the proposed development / land alteration. However, recommend that the proposed development / land alteration be carried out with minimal ground disturbance.

6. When structures for bank stabilization measures are proposed, it should be demonstrated that the 'softest' possible measures have been applied before increasingly 'harder' measures are required. Monitoring and regular reporting to the Islands Trust by a registered professional engineer or geoscientist at the applicant's expense may be required during construction and land development phases, as specified in a development permit.			X	
Guideline	Complies?			How has the guideline been met and/or how are you addressing the guideline?
	Yes	No	N/A	
7. Any proposed bank stabilization should be limited to that minimally necessary to prevent damage to existing structures, uses or features. Applications involving stabilization features should include a report, prepared by a qualified professional licensed in the Province of BC with experience in geotechnical engineering, which describes the proposed stabilization measures including: a. The need for the proposed bank stabilization to protect existing structures, uses or features, including alternative measures available that would be feasible or sufficient. b. An evaluation of on-site drainage and confirmation that the erosion is not caused or exacerbated by upland conditions such as drainage control or loss of vegetation. c. How the stabilization measure would protect existing structures, uses or features. d. If any natural hazards, erosion, or interruption of geohydraulic processes may arise from the proposed stabilization, including at sites on other properties or foreshore locations. e. Potential impacts to the natural shoreline processes resulting from the proposed stabilization. f. Whether there will be any degradation of water quality or loss of fish or wildlife habitat because of the stabilization. g. Recommendations for conditions that should be incorporated into the development permit in order to achieve the objectives of this Development Permit Area.			X	
8. The Local Trust Committee may consider variances to siting or size regulations where the variance could result in enhanced protection of the eroding sandbanks.			X	

Signature of Professional Geotechnical Engineer:



Seal of Professional Geotechnical Engineer:



Attachment 2

One: View northwest showing dwelling site (staked)



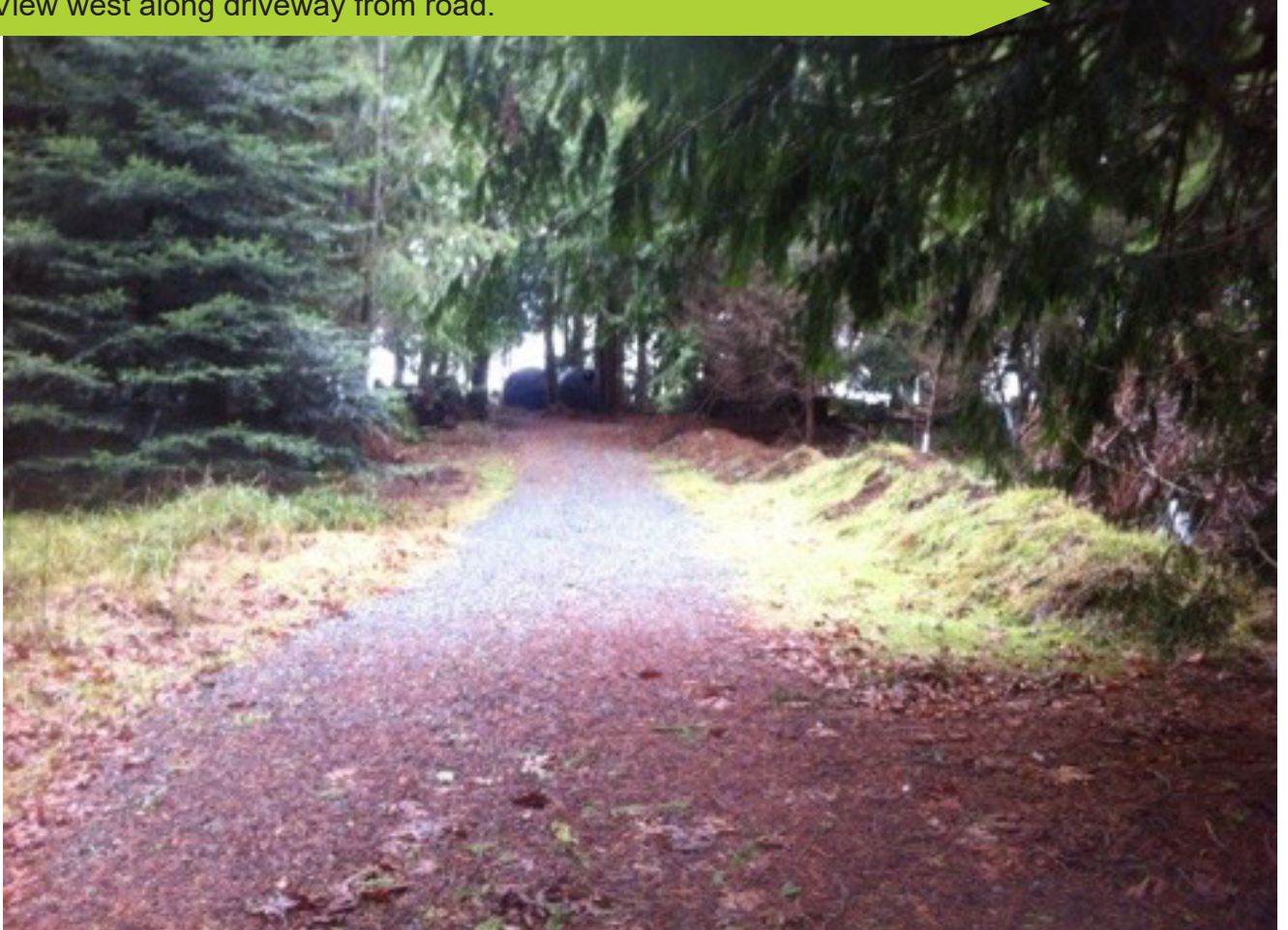
Two: View northeast (rear of proposed dwelling site)



Three: View west toward proposed dwelling site.



Four: View west along driveway from road.





**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT
NP-DP-2021.7**

To: Ernest and Arlynn Brodie

1. This Development Permit (the "Permit") applies the land described below and all buildings, structures and other developments therein:

Strata Lot 81, Section 2, Sidney Island, Range 1W, North Saanich District, Strata Plan
VIS5122 (PID: 026-298-074)

2. This Development Permit NP-DP-2021.7 authorizes construction of a building (**dwelling**) and associated land alteration of land as shown on **Schedule 'A'** and within Sidney Island Geotechnical Permit Area (DPA) as designated in the North Pender Associated Islands OCP Bylaw No. 147, 2002 ('OCP'), subject to the following requirements and conditions:

Permitted Siting, Tree Removal and Land Alteration

- a) The proposed dwelling shall be sited with a maximum offset ('Area of Incursion') of 5.0 m west of the 'Area 'B' Boundary' as shown on **Schedule 'A'**, attached to and forming a part of this permit.
- b) The siting of the dwelling shall be established on site by a British Columbia Land Surveyor (BCLS) prior to the commencing of any construction including excavation, and verified by a legal survey at the foundation inspection of the Building Permit process.
- c) Any tree removal within the DPA other than required for the construction of the dwelling shall be undertaken under the supervision of a qualified professional Arborist, and shall minimize ground disturbance, with all trunks and root plates are to be retained for soil stability.

Geological Hazzard Assessment Report

- d) Construction of, alteration to or addition of the dwelling and any associated alteration of land shall comply with the recommendations of the report entitled "Geotechnical Assessment, 433 Arbutus Spur (Strata Lot 81) - Sidney Island, BC" (Shane Haxton, P.Eng., Ryzuk Geotechnical, April 13, 2021), attached to and forming part of this permit as **Schedule 'B'**.

Construction and Storm Water Management

- f) Overall, permitted development, including the excavation and construction, including associated infrastructure, for the proposed dwelling, shall be undertaken with minimal ground disturbance.
- g) Any surface water flow shall be directed away (eastward) from the slope crest and discharged on the east portion of the property.

- h) During construction, and when construction is completed, all storm water drainage and rain water collection from the dwelling or any other building or structure on the property shall be directed east and into an adequate rock-pit or infiltration pit located a minimum of 25 metres from the Area 'B' Boundary as shown on **Schedule 'A'**.
 - i) All necessary measures are to be taken to protect the shoreline area from sedimentation, specifically:
 - i. Construction and landscaping should be undertaken during dry weather and not during periods of prolonged rainfall;
 - ii. Prior to commencing construction, and for the duration of construction, temporary fencing shall be erected along or adjacent to the Area 'B' DPA Boundary and the Area of Permitted Incursion as shown on **Schedule 'A'**, for the entire north-south width of the property;
 - iii. Prior to commencing construction, and for the duration of construction, silt fencing shall be installed as shown on **Schedule 'A'** extending for a minimum distance of 10 metres north to 10 metres south of any excavation or clearing, all in accordance with the specification 'Erosion and Sedimentation Control Measures' attached to and forming part of this permit as **Schedule 'C'**; and,
 - iv. Any soils exposed or deposited for a period of greater than two (2) weeks shall be covered and maintained by means of tarps in good repair and/or hydromulch (without seeds).
 - j) All necessary measures are to be taken to protect the Conservation Covenant Area from incursion or damage, specifically:
 - i. Prior to commencing construction, and for the duration of construction, additional temporary fencing shall be erected along the shared boundary of the Conservation Covenant Area as shown on Schedule 'A', and a minimum of two waterproof signs 28 cm x 41 cm (11" x 16") in size stating the following in bold text: **'PROTECTED CONSERVATION AREA - NO ENTRY'**.
 - ii. There shall be no incursion into the Conservation Covenant Area by persons, machinery or equipment, nor any storage or placement of any construction materials or waste.
3. Any further development within designated Development Permit Areas will require a new Development Permit, or a Development Permit Amendment.
 4. The area described herein shall be developed substantively in accordance with the terms, conditions and provisions of this Permit, and any plans and specifications attached to this Permit, which shall form a part thereof.
 5. This permit does not relieve the applicant from complying with the provisions of the North Pender Associated Islands Land Use Bylaw No. 147, 2002 nor from acquiring required approvals from other agencies including, but not limited to, the Capital Regional District and the Ministry of Transportation and Infrastructure.

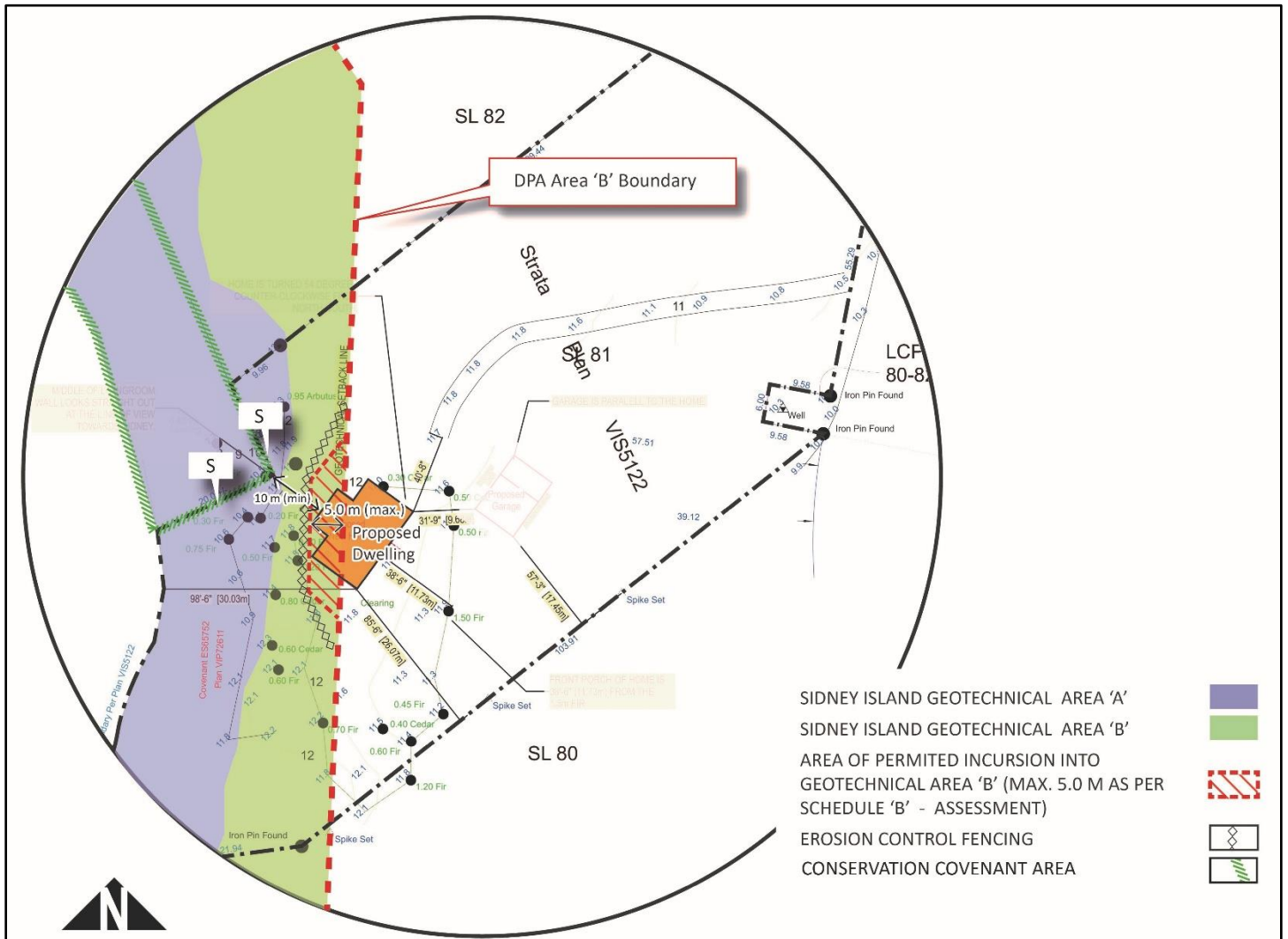
AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE, THIS
 ##TH DAY OF MONTH, 202#

Deputy Secretary, Islands Trust

Date Issued

IF THE DEVELOPMENT HEREIN IS NOT COMMENCED BY THE ##TH DAY OF MONTH, 202# THIS PERMIT
AUTOMATICALLY LAPSES.

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT 2021.7
Schedule 'A'
Site Plan



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT 2021.7
Schedule 'B'
Geological Assessment Report**



RYZUK GEOTECHNICAL
Engineering & Materials Testing

6-40 Cadillac Ave, Victoria, BC, V8Z 1T2 Tel: 250-475-3131 E-mail: mail@ryzuk.com www.ryzuk.com

April 13, 2021
File No: 10443-1

Arlynn Brodie



Attn: Arlynn

Re: Geotechnical Assessment
433 Arbutus Burr (Strata Lot 81) – Sidney Island, BC

As requested, we attended the referenced site to assess the existing site conditions and potential geohazards related to the development of a single family residence. The assessment included a review of the Sidney Island Geotechnical Development Permit Area map, the Sidney Island Residential Subdivision geotechnical report prepared by Levelton Engineering Ltd., the architectural and survey plans provided to us, as well as our file information from previous projects in the area. Our associated observations, comments, and recommendations pertaining to potential geohazards on site are contained herein. The work has been undertaken in accordance with, and is subject to, the attached Terms of Engagement.

The site is irregularly shaped, with dimensions of approximately 63 m wide by 140 m long, and is bounded by Sidney Channel to the southwest, similar strata lots to the northwest and southeast, and common property/Arbutus Spur to the northeast. There is currently a geotechnical covenant line on the property, which is located approximately 30 – 40 m northeast of the southwest property line, that restricts building construction southwest of the line, denoted as Development Permit Area (DPA) 'B' per North Pender Associated Islands Official Community Plan, Bylaw No. 147. From our review of the drawings and our discussions, we understand that the proposed single family residence will be constructed northeast of this covenant line, but a concrete patio will be constructed extending up to 5 m southwest of the covenant line.

The site slopes steeply at the southwestern end, but is relatively flat in all remaining areas. The topography of the southwest end of the site slopes up at 80 degrees from the natural boundary at Sidney Channel for the lower 3 – 4 m of the slope, flattening to approximately 45 degrees to an elevation of approximately 12 m, becoming near vertical near the crest of the slope, and then sloping up from the crest at approximately 30 degrees, with locally steeper and flatter areas. To the northeast of the foreshore slope the site slopes down very gently from southwest to northeast, and from northwest to southeast.

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Ryzuk Geotechnical

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Soil stratigraphy observed on the site and foreshore slope were generally as follows:

- 0.3 m thick surficial topsoil layer,
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Based on the above, we conclude that the site will not be at risk of erosional slope regression during the design life of the proposed single family residence, and that the seismically induced slope regression will be in the order of 25 m (measured from the toe of the slope). As such, we consider that the proposed patio and house can be constructed up to 5 m west of the current covenant line, without being at risk of seismic or erosion based geohazards. This offset will need to be laid out by a surveyor prior to construction.

To help prevent further increase in the rate of erosion at the toe of the slope, any surface water flow should be directed away from the slope crest, and discharged on the northeast portion of the lot. As well, no stormwater is to be discharged on the foreshore slope. It is recommended that footings be installed a minimum of 0.45 m below the ground surface for frost protection. Provided that the proposed foundations

April 13, 2021

Based on the above, we consider that the current building site northeast of the covenant line is set back sufficiently from the slope to mitigate the geohazard risks from seismically induced slope regression resulting from a design seismic event with a 2% probability of exceedance in 50 years. As such, we consider the site safe for the use intended, that being single family residential use, in accordance with Section 56 of the Community Charter. Note that if the building setback from the slope crest is reduced from what is noted above, further review and analysis is required.

We hope the preceding is suitable for your purposes at present, however if you have any questions with respect to the above, please contact us.

Sincerely,
Ryzuk Geotechnical

Shane Haxton, P.Eng.
Intermediate Engineer

Attachment - Terms of Engagement

SIDNEY ISLAND GEOTECHNICAL DEVELOPMENT PERMIT AREA

Checklist to be completed by Professional Geotechnical Engineer

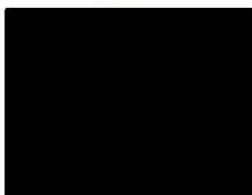
Guideline	Complies?			How has the guideline been met and/or how are you addressing the guideline?
	Yes	No	N/A	
1. A development permit should not allow any land alteration or other development activities to take place within any area identified by a geological hazard assessment as subject to a landslide or other geotechnical hazard with a probability in excess of 2% in 50 years.	X			The proposed development / land alteration, including, but not limited to, the construction of a residence and patio no more than 5 m southwest of the current covenant line will be outside of the area within Lot 81 subject to a landslide or other geotechnical hazard with a probability of excess of 2 % in 50 years.
2. All applications should include a geological hazard assessment from a qualified professional licensed in the Province of BC with experience in geotechnical engineering stating that the proposed land alteration or other development will not result in slope instability or other geological failure hazard with a probability in excess of 2% in 50 years. Where the geological hazard assessment report describes an area a suitable for development provided that specific measures are taken, the development permit should only allow the development to occur in compliance with the measures described in the report.	X			The proposed development / land alteration (as outlined in our Geotechnical Assessment Report of April 13, 2021), in our professional opinion, will not result in slope instability or other geological failure hazard with a probability of excess of 2 % in 50 years.
3. Any area proposed to be cleared and disturbed for development should be minimized and landowners are encouraged to retain existing trees and vegetation in areas that may be reasonably considered subject to erosion as determined by a qualified professional. Where a permit authorizes the cutting of trees, re-planting and maintenance of disturbed areas should be considered for inclusion as a condition of the permit. The introduction of non-native species should be avoided and the permit may require a landscaping plan and a security, in the form of an irrevocable letter of credit, for 125% the cost of re-planting as determined by a professional landscaper	X			We are not aware of any tree removal proposed at the site currently, other than that associated with construction of the new residence. For any tree removal done within Area 'B', we recommend that it is carried out by a qualified arborist, that ground disturbance is limited during removal, and that the stumps and roots outside of the proposed residence footprint are left in place.
4. All on-site drainage should be directed away from the shoreline or crest of slope	X			We understand that all onsite drainage will be directed away from both the shoreline and the crest of the slope.
5. Any land alteration or development involving the disturbance of the soil must be conducted in such a manner as to limit direct run-off into the sea and prevent the release of sediment towards the shore.	X			We do not anticipate any significant run off into Sidney Channel and release of sediment towards the shore resulting from the proposed development / land alteration. However, recommend that the proposed development / land alteration be carried out with minimal ground disturbance.

6. When structures for bank stabilization measures are proposed, it should be demonstrated that the 'softest' possible measures have been applied before increasingly 'harder' measures are required. Monitoring and regular reporting to the Islands Trust by a registered professional engineer or geoscientist at the applicant's expense may be required during construction and land development phases, as specified in a development permit.			X	
Guideline	Complies?			How has the guideline been met and/or how are you addressing the guideline?
	Yes	No	N/A	
7. Any proposed bank stabilization should be limited to that minimally necessary to prevent damage to existing structures, uses or features. Applications involving stabilization features should include a report, prepared by a qualified professional licensed in the Province of BC with experience in geotechnical engineering, which describes the proposed stabilization measures including: a. The need for the proposed bank stabilization to protect existing structures, uses or features, including alternative measures available that would be feasible or sufficient. b. An evaluation of on-site drainage and confirmation that the erosion is not caused or exacerbated by upland conditions such as drainage control or loss of vegetation. c. How the stabilization measure would protect existing structures, uses or features. d. If any natural hazards, erosion, or interruption of geohydraulic processes may arise from the proposed stabilization, including at sites on other properties or foreshore locations. e. Potential impacts to the natural shoreline processes resulting from the proposed stabilization. f. Whether there will be any degradation of water quality or loss of fish or wildlife habitat because of the stabilization. g. Recommendations for conditions that should be incorporated into the development permit in order to achieve the objectives of this Development Permit Area.			X	
8. The Local Trust Committee may consider variances to siting or size regulations where the variance could result in enhanced protection of the eroding sandbanks.			X	

Signature of Professional Geotechnical Engineer:



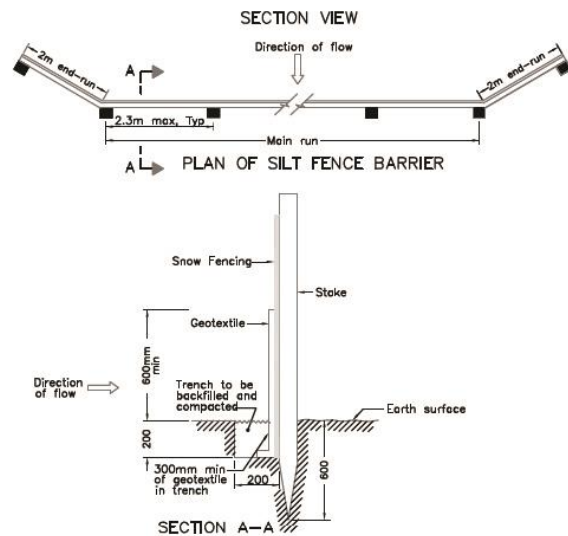
Seal of Professional Geotechnical Engineer:



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT 2021.7
Schedule 'C'
Erosion and Sedimentation Control Measures**

EROSION AND SEDIMENTATION

- 1) PRE-STAKED SILT FENCE TO BE INSTALLED AS SHOWN PRIOR TO CONSTRUCTION AS DIRECTED BY THE ENGINEER.
- 2) TOPSOIL STRIPPED FOR REUSE TO BE STOCKPILED AWAY FROM WATER COURSES, DRAINAGE PATHS AND PROPERTY AND SHALL BE COVERED AND / OR SEEDED TO REDUCE EROSION.
- 3) ALL DISTURBED AREAS TO BE RESTORED AND LANDSCAPED AS SOON AS POSSIBLE FOLLOWING CONSTRUCTION.
- 4) ALL EROSION AND SEDIMENT CONTROL MEASURES TO BE INSPECTED AND MAINTAINED ON A REGULAR BASIS THROUGHOUT THE COURSE OF CONSTRUCTION BY THE CONTRACTOR. THE QUALIFIED ENVIRONMENTAL MONITOR (QEM) JOHN GRODS SHALL HALT PROGRESS OF ANY AND ALL WORK AND SHALL DIRECT CONTRACTOR TO REPAIR / ALTER CONSTRUCTION MITIGATION MEASURES IF THEY ARE NOT PERFORMING ADEQUATELY.



NOTE:

All dimensions are in millimetres or metres unless otherwise shown.

SILT FENCE WITH SNOW FENCE DETAIL

NTS

File No.: NP-DP-2021.8
NP-BE-2017.1

DATE OF MEETING: January 27, 2022
TO: North Pender Island Local Trust Committee
FROM: Phil Testemale, Planner 2
Southern Team
COPY: Kim Stockdill, Island Planner
SUBJECT: Development Permit Application
Applicant: Denver Clarke
Location: 2634 Lighthouse Lane

RECOMMENDATION

1. That the North Pender Island Local Trust Committee approve issuance of Development Permit NP-DP-2021.8 (Clarke).

REPORT SUMMARY

This report is to consider a Development Permit (DP) application.

The purpose of the DP is to authorize measures for the restoration of loss to sensitive woodland ecosystem resulting from unpermitted tree removal within **Development Permit Area One – Woodland Ecosystems (DPA)**.

BACKGROUND

The application is the result of Bylaw Enforcement action for the unpermitted removal of fourteen (14) mature trees within the DPA in 2017. The owners were non-cooperative with compliance and enforcement investigation and action. This led to legal action being taken by the LTC, resulting in a Consent (Court) Order (Attachment 3) for the owners to replant and maintain for five (5) years in accordance with the contracted environmental assessment and restoration plan (below). The consent order specifically requires the owners to apply for and obtain a DP for the restoration.

The specific objective of the designation of the DPA is:

To preserve and protect remaining sensitive woodland ecosystems.

The tree removal, shown in Figure 2 and Attachment 2.5, was as follows:

- Two (2) Arbutus with 51.25 cm and 62 cm stump diameters; and,
- Twelve (12) Douglas-firs with stump diameters from 38 cm to 104 cm (p. 11 of next)

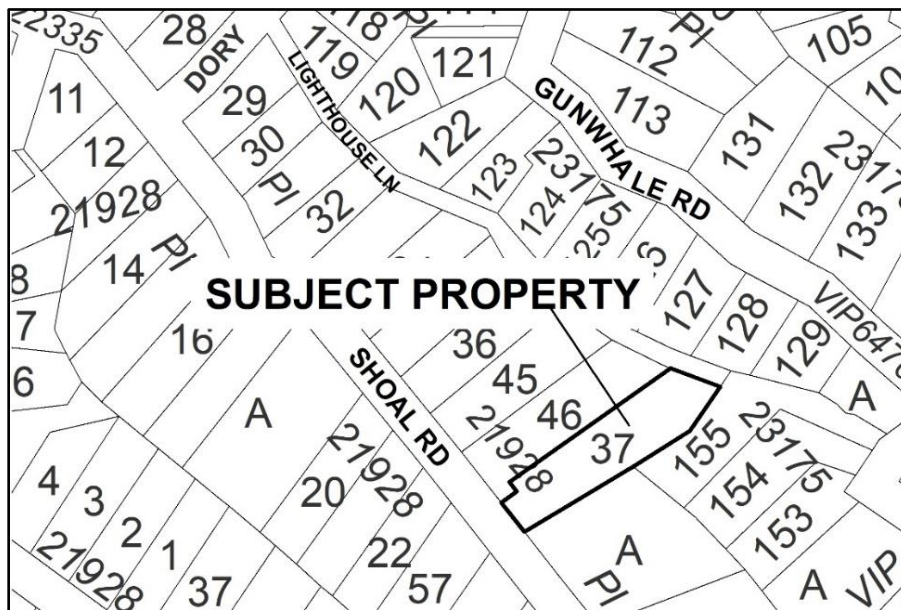
A Biologist's report entitled 'Environmental Assessment and Restoration Plan for 2634 Lighthouse Lane, Pender Island, BC' (Dan Baxter and Erin O'Brien, Caurinus Environmental, February 10, 2021) was contracted by, and submitted to, the Islands Trust (Attachment 5). All recommendations of the assessment report for restoration and monitoring as they apply to the DPA have been incorporated into the draft DP. This is discussed further in 'Issues and Opportunities' below.

In response to a recent e-mail enquiry by staff, the owners stated that the rationale for removing the trees was not to improve ocean views, rather that "...they were given advice that a number of the trees were dead or dying and could damage the house if they were knocked over in a storm." Additionally, they stated that: they were unaware of the DPA, and the requirement to obtain a permit for the removal; that neither they or their contractor were made aware of the requirement during the removal (which took place over a period of approximately one (1) to two (2) weeks); and, that they don't recall the name of the contractor who removed the trees.

A copy of the Development Permit Area Checklist for DPA 1 and the proposed Development Permit NP-DP-2021.8 (Clarke) are Attachments 4 and 7.

Planning staff have not visited the property. Photographs from Bylaw Enforcement staff site visits in February of 2017 are shown as Attachment 2.5

Figure 1 – Subject Property



ANALYSIS

Official Community Plan:

The property is designated **RR - Rural Residential** in the North Pender Island Official Community Plan No. 171, 2007.

As stated above the **Development Permit Area One – Woodlands Ecosystem (DPA)** is designated on the subject property. (Figure 2).

DPA Guidelines

The DPA guidelines are analyzed in Attachment 4 and, in summary, the restoration and monitoring plan meets the guidelines.

Figure 2 – Site Plan



Issues and Opportunities

Biologist's Report

The Biologist's report inventories the biophysical context and the site specific conditions of flora, fauna and land uses. It notes that no rare or species at risk were identified on the property during the site visit. An impact assessment statement of the tree removal is on page 18 and in summary resulted in:

- Increased sunlight reaching the forest floor, increasing soil moisture loss (and fire hazard) and increased vulnerability to the introduction and spread of non-native species;
- Contributing to the ongoing fragmentation of threatened, rare Coastal Douglas-fir ecosystems in the region;
- Loss of vertical structure and canopy cover with resulting loss of ecosystem services and biodiversity which will take many decades to restore;

- Attracting herbivores such as deer with increased browsing pressure on regenerating seedlings; and,
- Increased probability of blow-down of remaining trees.

The restoration plan has the objective of ensuring that this contiguous section of rare Douglas-fir-Onion Grass and Douglas-fir –Shore pine habitat remains intact, and preventing further seeding of non-native species into the woodland ecosystem. The plan is outlined on pages 18 – 22 and includes recommendations for tree replacement planting, invasive species removal, construction management and monitoring all of which have been incorporated into the draft DP (next).

The report concludes:

These plantings will be sufficient to restore the canopy trees that were removed from the Woodland Ecosystem DPA, and over time will restore the ecological function of the forest ecosystems present, providing they are sufficiently protected and watered as necessary to allow them to reach a free-to-grow stage (~1.5m in height). It is our opinion that the guidelines and recommendations we have outlined above will ensure that further detrimental impacts to the sensitive and threatened ecosystems on the subject property can be avoided. (p. 22)

Conditions in Permit.

All recommendations of the Biologist's report have been incorporated into the Draft DP (Attachment 6). They are under the headings of **Mitigation and Restoration (Tree Replacement & Retention)**, **Native and Invasive Species Management (Retention, Planting and Removal)**, **Construction Management** and **Monitoring**.

Given the enforcement history, the draft permit includes the requirement to provide a security deposit to cover the restoration should the planting, exclusion and maintenance works not be completed, as well as for the cost of ongoing monitoring should the owners fail to provide that. An estimate from Caurinus Environmental has been provided for a total amount of \$13, 725.00 (Attachment 6). Issuance of the permit would be conditional upon the receipt of the security deposit.

Consultation

There is no public or agency consultation regularly associated with a DP application. In addition, there is no statutory notification required.

First Nations

The Islands Trust reviews all applications to ensure the preservation and protection of cultural heritage, archaeological sites, and ancestral places. Properties may show potential for archaeological material to be found on the property during the proposed development, and Islands Trust provides information to applicants requesting they comply with the *Heritage Conservation Act* (HCA). The applicant has been provided the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on HCA compliance. During the course of any development or land alteration applicants must ensure that in the event of archaeological material, or values being found all work on the property is stopped to preserve and protect cultural heritage. As reviewed, the DP application for restoration is consistent with respect to LTC Standing Resolutions on reconciliation.

Rationale for Recommendation

The recommendation on page 1 is supported as: the DP will authorize the court ordered restoration to proceed; guidelines of the DPA applicable to the mitigation and restoration would be met, including provision of a security deposit; and, all recommendations of the Biologist's report have been incorporated into the proposed DP.

Alternatives

The LTC may consider the following alternatives to the staff recommendation:

1. Request further information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific information needed and the rationale for this request. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request that the applicant submit to the Islands Trust _____.

2. Deny the application

The LTC may deny the application.

The LTC is advised to cite the DPA guideline it does not comply with. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee deny application NP-DP-2021.8 (Clarke) for the following reasons....

NEXT STEPS

If the DP is approved, the owner is required to pay the security deposit and has indicated they will undertake required restoration work this winter.

Submitted By:	Phil Testemale, Planner 2	January 20, 2022
Concurrence:	Robert Kojima, Regional Planning Manager	January 20, 2022

ATTACHMENTS

1. Site Context
2. Maps, Plans, Photographs
3. Court Order No. S-1830898
4. DPA Guideline Checklist
5. Environmental Assessment and Restoration Plan
6. Cost Estimate (2022-01-19)
7. Draft Development Permit (NP-DP-2021.8)

ATTACHMENT 1 – SITE CONTEXT

LOCATION

Legal Description	Lot 37, Section 9, Pender Island, Cowichan District, Plan 21928
PID	003-366-731
Civic Address	2634 Lighthouse Lane

LAND USE

Current Land Use	Rural Residential
Surrounding Land Use	Rural Residential

HISTORICAL ACTIVITY

File No.	Purpose

POLICY/REGULATORY

Official Community Plan Designations	The property is designated as RR - Rural Residential in the North Pender Island Official Community Plan No. 171, 2007 (OCP). Development Permit Area One – Woodland Ecosystems designated as shown in Attachment 2.2
Land Use Bylaw	The subject property is zoned as Rural Residential in the North Pender Island Land Use Bylaw 103, 1996.
Other Regulations	N/A
Covenants	N/A
Bylaw Enforcement	NP-BE-2017.1 - Tree removal in DPA without a permit – application subject.

SITE INFLUENCES

Islands Trust Conservancy	This application has no considerations for the Islands Trust Conservancy.
Regional Conservation Strategy	This application has no considerations for the Regional Conservation Plan.
Species at Risk	QEP EA Report's site inventory identified no species at risk or potential (Attachment 5 – pp. 8-14).
Sensitive Ecosystems	Woodland Ecosystem – Attachments 2.2 & 2.3.
Hazard Areas	Areas of Low and Medium Slope hazard mapped as Attachment 2.4
Archaeological Sites	No further tree removal, or land alteration (save for shallow planting of seedlings) is proposed. There are no archaeological sites are noted within the property or within 100 metres. There is an archeological potential mapped on portions of the property. By copy of this report, the owners and applicant should be aware that there is still a chance that the lot may contain previously unrecorded archaeological material that is protected

	under the <i>Heritage Conservation Act</i> . If such material is encountered all work should cease and Archaeology Branch should be contacted immediately as a <i>Heritage Conservation Act</i> permit may be needed before further development is undertaken. This may involve the need to hire a qualified archaeologist to monitor the work.
Climate Change Adaptation and Mitigation	Removal of trees had negative impact on GHG emissions, however, restoration plan will offset in the long term. No new development is proposed, however the previous tree removal on steep slopes could increase vulnerability of the subject property and those below to climate induced hazards exemplified by recent extreme rain events.

ATTACHMENT 2 – MAPS, PLANS, DRAWINGS, PHOTOGRAPHS

2.1 ORTHOPHOTO



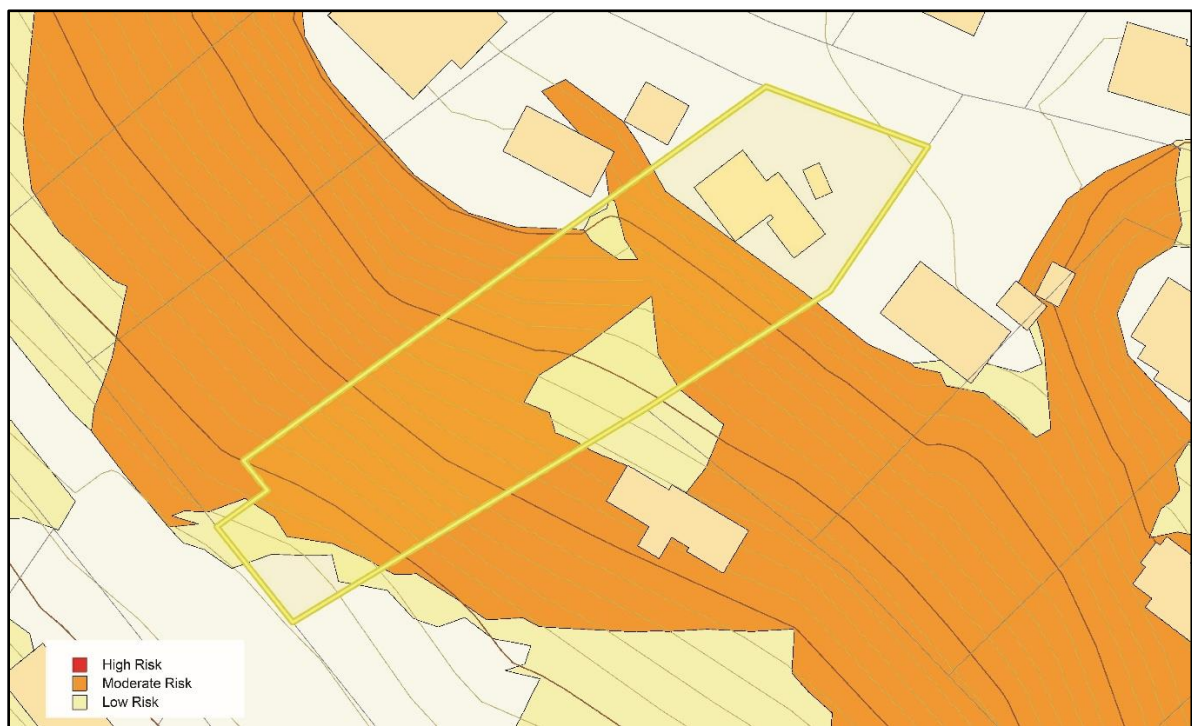
2.2 DPA ONE



2.3 SENSITIVE ECOSYSTEMS MAPPING

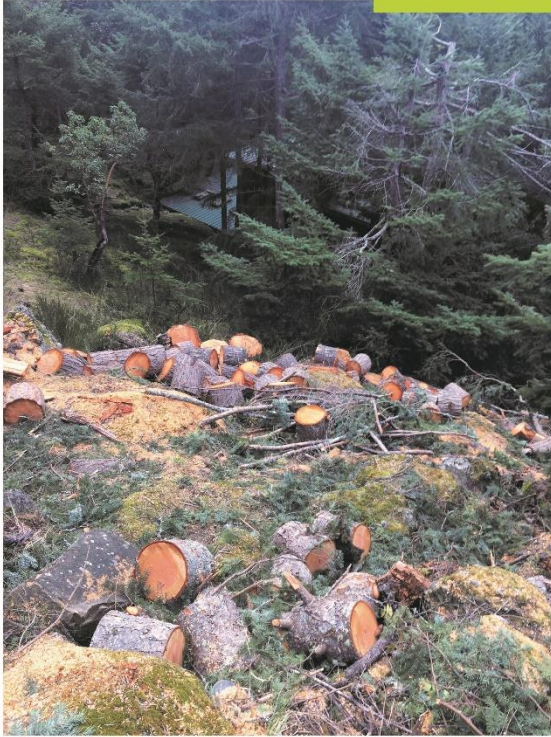


2.4 STEEP SLOPE HAZARD AND CONTOURS



2.5 PHOTOGRAPHS

February 14, 2017 Photos (Below Dewlling)



2.5 PHOTOGRAPHS (CONT'D)

February 23, 2017 Photos (Above and Side of Dwelling)



2.5 PHOTOGRAPHS (CONT'D)

February 23, 2017 Result to Southwest





**No. S-183098
VANCOUVER REGISTRY**

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

PLAINTIFF

AND:

**ANGELA MARIA MARGARET BYRNE,
DENVER ROBERT JOSEPH BYRNE CLARKE**

DEFENDANTS

CONSENT ORDER

BEFORE

~~A JUDGE OF THE COURT~~ [REDACTED]
~~or~~
A MASTER OF THE COURT
~~or~~
A REGISTRAR *[Signature]*

04 November/2021
[dd/mm/yyyy]

ON THE APPLICATION of the Plaintiff North Pender Island Local Trust Committee without a hearing and BY CONSENT;

THIS COURT ORDERS THAT

- 1. Further to the consent order made in this proceeding on March 9, 2020, the Defendants shall:**
 - (a) plant, or cause to be planted, 30 Douglas-fir seedlings (the "Seedlings") on the parcel legally described as: PID 003-366-731, Lot 37, Section 9, Pender Island Cowichan District, Plan 21928 (the "Property") between October 1 and November 30, 2021;**
 - (b) plant all of the Seedlings:**
 - (i) in evenly spaced locations determined in consultation with a qualified environmental professional or professional landscape architect;**

- (ii) within the unlawfully cleared portion of the Property and within Development Permit Area One – Woodland Sensitive Ecosystem (“DPA One”) designated under the North Pender Island Official Community Plan Bylaw No. 171, 2007; and
- (iii) In accordance with the recommendations set out in the Environmental Assessment and Restoration Plan for 2634 Lighthouse Lane Pender Island, BC dated February 10, 2021 and prepared by Caurinus Environmental (the “Report”);
- (c) erect and maintain fencing to protect the arbutus shoots within the cleared area of the Property (the “Arbutus Shoots”) and the Seedlings in accordance with the recommendations in the Report;
- (d) care for and maintain the Seedlings, Arbutus Shoots the surrounding vegetation in accordance with the recommendations in the Report for five years from the date the Seedlings are planted;
- (e) apply for and obtain a development permit prior to commencing land alteration work on the Property; and
- (f) not remove any trees within DPA One except as permitted by a development permit or further order of the court.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS NOTED ABOVE


 Signature of lawyer for the Plaintiff
 North Pender Island Local Trust Committee
 Michael Moll


 Signature of Defendant
 Denver Robert Joseph Byrne Clarke


 Signature of Defendant
 Angela Maria Margaret Byrne

By the Court.


 Registrar

No. S-183098
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NORTH PENDER ISLAND
LOCAL TRUST COMMITTEE

PLAINTIFF

AND:

ANGELA MARIA MARGARET
BYRNE,
DENVER ROBERT JOSEPH
BYRNE CLARKE

DEFENDANTS

ORDER

grege young anderson .ca

Michael Moll
Young Anderson
Barristers and Solicitors
1616 - 808 Nelson Street
Box 12147, Nelson Square
Vancouver, BC V6Z 2H2
Telephone: 604.689.7400



2219

DPA Checklist: NP-DP-2021.8 (Clarke)
Restoration for Tree Removal

Guidelines	Comments
<i>Overall DPA Guidelines</i>	
1. Where lots are not subject to further subdivision, applicable guidelines should be considered to the extent reasonable within the constraints of the site and the lot.	N/A
2. Avoid locating development in areas containing important, rare or fragile sensitive ecosystems or habitat where reasonable alternative sites exist.	N/A
3. The area cleared and disturbed for development should be minimized.	N/A
4. Fewer, but larger, undisturbed areas should be retained, rather than small or isolated undisturbed areas.	N/A
5. Buildings and associated infrastructure should be sited with sufficient undisturbed space around significant mature or established trees to protect root systems.	N/A
6. Undeveloped buffer areas should be retained around sensitive ecosystems, features or habitat where feasible. Buffer areas should be of sufficient width to limit access by invasive plants.	N/A
7. Natural features should be retained through incorporation into the design of the development. In particular, unique or special natural features such as native grasses, rare plants, unique land forms, rock outcroppings, mature trees, spits and dunes should be protected.	N/A
8. Connections and corridors should be maintained to provide continuity between sensitive ecosystems and important habitat.	N/A
9. Use of drought resistant and native plants in landscaping should be encouraged. The planting or introduction of non-native plants should be avoided.	N/A

Guidelines	Comments
10. Soil removal and deposit within or adjacent to a sensitive ecosystems or habitat should be avoided.	N/A
11. Alteration of natural drainage systems in ways that increase or decrease the amount of water available to a sensitive ecosystem should be avoided.	N/A
12. Septic fields should be located in such a manner that the possibility of pollution of sensitive ecosystems or habitat is avoided.	N/A
13. Driveways and other accesses should be limited to the number required for safe access, with shared driveway access where feasible. Driveway lengths and widths should be limited to the minimum necessary. The use of impervious surfaces should be discouraged.	N/A
14. Shoreline structural modifications should be limited in number and extent and should be necessary to support or protect a permitted or existing use or structure.	N/A
15. Preference should be given to shoreline structures that have a lesser impact or enhance ecological functions, including vegetation enhancement, drainage control, beach enhancement, anchor trees, gravel placement. Harder construction measures should be avoided where possible.	N/A
16. Shoreline stabilization should not interrupt natural processes solely to reduce erosion of undeveloped land, except for agriculture. Vegetation which helps stabilise banks, reduce erosion and provides habitat should be retained or enhanced.	N/A
17. The permit conditions may include:	
a) the construction of permanent or temporary fencing around sensitive features;	N/A
b) fencing, flagging and posting of notices during construction;	N/A
c) limits on blasting in sensitive areas;	N/A
d) limits on construction timing;	N/A
e) provision of works to maintain or restore the quantity or quality of water reaching environmentally sensitive areas or habitat;	Yes

Guidelines	Comments
f) restoration or enhancement of disturbed sensitive ecosystems and habitat	
18. The LTC may consider variances to siting or size regulations where the variance could result in enhanced protection of an environmentally sensitive area.	N/A
<i>Woodland Ecosystem Guidelines</i>	
1. Large mature and old trees, trees containing cavities, the root systems of trees, rare plant species, native grasses and associated understorey vegetation should be protected.	Yes - as part of restoration plan/conditions in DP
2. Unnecessary removal of dead or declining trees, downed logs, snags and leaf litter should be avoided.	Yes - as part of restoration plan/conditions in DP
3. Consideration should be given to requiring fencing as a condition of a permit in order to manage access.	N/A
4. Where feasible, cut dangerous trees to a level where they are safe rather than removing entirely.	N/A
5. Denning and nesting sites or rare, threatened or endangered species should be protected.	N/A
6. Stairs, walkways and other access within a sensitive ecosystem adjacent to the shoreline should be limited to that required for safe access, with shared access where feasible. Stairs should incorporate landings, follow existing contours of the site, utilize small concrete pilings and have gaps between boards.	N/A

Environmental Assessment and Restoration Plan for 2634 Lighthouse Lane Pender Island, BC

Submitted To:

Denver Clarke

On

February 10, 2021

Prepared By:

Dan Baxter and Erin O'Brien



Caurinus Environmental

Caurinus Project No.: CE2019006

Table of Contents

1.0	Introduction	3
2.0	Supporting Inventories	4
2.1	Physical Resources	4
2.2	Topography	5
2.3	Hydrology	5
2.4	Biological	6
3.0	Site Inventory	8
3.1	Conservation Data Centre	8
3.2	Flora	8
3.3	Fauna	12
3.4	On Site Land Use	15
4.0	Impact Assessment	18
5.0	Mitigation and Restoration	18
6.0	Site Monitoring	22
7.0	Conclusion	22
8.0	References	23

1.0 Introduction

In March 2019, Caurinus Environmental was contacted by Warren Dingman of the Islands Trust and retained to complete an environmental inventory, condition and impact assessment and prepare a revegetation plan for the designated Woodland Ecosystem DPA at 2634 Lighthouse Lane on Pender Island (Figure 1), following unpermitted tree felling. The purpose of this report is to provide a complete environmental inventory and impact assessment, and present a plan to guide proposed restoration activities in an environmentally responsible manner.



Figure 1. Location of subject property on Pender Island, BC, within the Southern Gulf Islands (Google Earth 2020).

The subject property is located in the North Pender Island Local Trust Area, Capital Regional District (CRD), and is approximately 0.33 ha (0.82 acres) in size. The property is located on Lighthouse Lane, approximately 470 m Northwest of Buck Lake (Figure 2). The legal description for the parcel is *Lot 37 Plan, VIP21928, Section 9, Land District 16, Portion Pender Island (PID: 003-366-731)*.

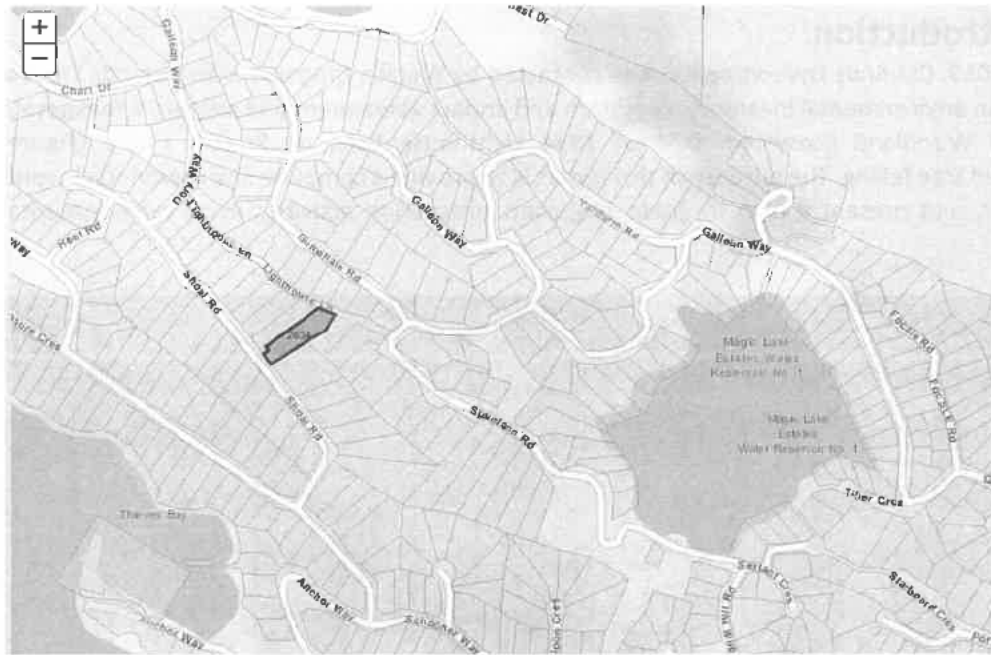


Figure 2. 2634 Lighthouse Lane, Pender Island (e-valueBC, BC Assessment 2020).

The proposed area is currently zoned RR2 (Rural Residential) in a strata lot with adjacent property to the north, south, east and west also designated as rural residential. The subject property falls under the jurisdiction of the North Pender Island Local Trust Area and consequently must conform to the North Pender Island Official Community Plan Bylaw No.171, 2007. Both phases of the environmental assessment are included in this report: Ecological Assessment Phase as well as Impact Assessment and Mitigation Phase. Other regulatory frameworks which also guide the assessments and strategies within this report include, but are not limited to:

1. Species at Risk Act (SARA) - Federal
2. Migratory Birds Convention Act – Federal
3. Wildlife Act – Provincial

2.0 Supporting Inventories

A review of current information pertaining to the subject property and surrounding areas was conducted using the following resources:

- Biogeoclimatic maps and online satellite imagery of the subject property
- BC Conservation Data Centre (CDC)
- Ecocat, Ecosystems Report Catalogue
- Terrestrial Ecosystem Mapping

2.1 Physical Resources

Humid Temperate Ecodomain

In British Columbia, the ecosystems of the Gulf Islands originate from the most southerly extent of the Humid Temperate Ecodomain extending from the continental slope and shelf, all the coastal islands, adjacent

mountains, the central interior plateau, and the southern interior mountains. The climate is characterized by strong seasonal cycles of temperature and precipitation with a distinct winter (CPAWS 2005; Demarchi 2011).

Humid Maritime & Highlands Ecodivision

This Ecodivision occurs along the coast from the western edge of the Continental Slope eastward to the effective height of land on the Coast Mountains, including the Nass Basin and Nass Ranges. This Ecodivision's climate is temperate, with abundant rainfall throughout the year, but with reduced precipitation in summer. Coniferous tree species that occur include Douglas-fir (*Pseudotsuga menziesii*), Western redcedar (*Thuja plicata*), Western hemlock (*Tsuga heterophylla*), Sitka spruce (*Picea sitchensis*), amabilis fir (*Abies amabilis*), and yellow-cedar (*Chamaecyparis nootkatensis*). In the extreme south of the province, where it is much drier, it contains arbutus (*Arbutus menzeisii*) and Garry oak communities (CPAWS 2005; Demarchi 2011).

Georgian Depression Ecoprovince (GED)

This ecoprovince lies between the Vancouver Island Mountains and Olympic Mountains to the west and the southern Coast Mountains and northern Cascade Ranges to the east. In British Columbia, the Georgia Depression Ecoprovince is a large basin that encompasses the southeastern Vancouver Island Mountains, the Nanaimo Lowlands, and the Gulf Islands in the west, the Strait of Georgia in the middle, and the Georgia Lowlands and Fraser Lowlands in the east (CPAWS 2005; Demarchi 2011).

SGI - Southern Gulf Islands Ecosection

These islands occur from Newcastle and Gabriola islands south to Chatman, Discovery and Chain islands, including the inter-island channels and sounds that extend across the Strait of Georgia, and the San Juan Islands in Washington. The islands consist of folded and faulted shale and sandstone/conglomerate, with some volcanic stocks intermixed. This has resulted in the many linear valleys and island separations. The northwesterly aligned folded structure and the eroding power of southeasterly moving glacial ice have resulted in the prominent northwesterly-southeasterly alignment of the Gulf Islands. As the glaciers retreated, it resulted in very deep deposits of sediments on this lowland. Streams that originate here are short and often ephemeral, drying in the summer (CPAWS 2005; Demarchi 2011).

2.2 Topography

The bedrock geology plays a large role in the topography of the islands. North Pender bedrock is categorized as the Late Cretaceous Nanaimo Group with the strata consisting of alternating interbeds of sandstone, shale, siltstone, and conglomerate. This has led to the steep rugged topography following the trends of the major resistant bedrock units (sandstones and conglomerates), with the valleys being comprised of sandy or clay soils located over less resistant shale and along fault lines (Kenney *et al.* 1988; Kohut *et al.* 2001). Locally the surveyed property has been incised heavily and scraped down to the bedrock with large deposits of sediment throughout (Kohut *et al.* 2001). The subject area consists of a generally level slope beginning near the northeastern property boundary near Buccaneers Road and continuing towards Magic Lake on the southwestern side of the property.

2.3 Hydrology

Soils, climate, vegetation cover, and surface topography work together in a complementary manner. Soils directly influence the infiltration rate of rainfall, the rate of surface runoff, and ultimately the groundwater recharge/discharge as well as soil moisture content (Kenney *et al.* 1988). The general low primary porosity and permeability of bedrock on North and South Pender Islands indicates the reduced potential for water storage and accessibility. The location of the islands in a tectonically active area has the potential advantage of enhanced secondary porosity and permeability (Kenney *et al.* 1988).

2.4 Biological

2.4.1 Biogeoclimatic Ecosystem

In British Columbia, resource managers have advocated Terrestrial Ecosystem Mapping (TEM) as a means to establish natural resource baselines for planning and management purposes. Furthermore, these databases are to be used by stakeholders and resource planners to provide guidance for the private sector and all levels of government regarding conservation and management at a meaningful scale, such as community development plans, and to do so in a common language.

Climate, topography and surface geology influence the site hydrology, which in turn influences the biological resources on site. This ecological principle is fundamental to most Ecological Landscape Classifications. The vegetation assessment utilizes the Biogeoclimatic Ecosystem Classification (BEC) which is used extensively throughout British Columbia to report and describe terrestrial ecosystems. In the BEC system, climate is the most significant determinant of ecosystems, influencing soil characteristics which in turn influence the climax (old growth) vegetation, its composition and structure.

The subject property is located in the CDFmm - Moist Maritime Coastal Douglas-fir subzone occurring in the Southern Gulf Islands (Pojar and Mackinnin 1994). The Southern Gulf Islands ecosystems are heavily influenced by the rain shadow of the mountains on Vancouver Island and Washington's Olympic Peninsula. This results in warm, dry summers and mild, wet winters. The Southern Gulf Islands fall predominantly into the Coastal Douglas-Fir biogeoclimatic zone. The most common tree species found are Douglas-fir, Western redcedar and Garry oak (*Quercus garryana*). Other common species include salal (*Gaultheria shallon*) and Oregon grape (*Mahonia aquifolium*) in upland areas, wild rose (*Rosa acicularis*), snowberry (*Symphoricarpos albus*) and oceanspray (*Holodiscus discolor*) in rocky outcrops, and bigleaf maple (*Acer macrophyllum*), sword fern (*Polystichum munitum*), and salmonberry (*Rubus Spectabilis*) in moister regions (Meidinger and Pojar 1991; Demarchi 2011).

The following ecosystems were noted within the subject property (Green and Klinka 1994; Figure 3):

- CDFmm DS/01: Douglas-fir – Salal
- CDFmm DO/03: Douglas fir – Onion Grass
- CDFmm DA/02: Douglas-fir - Shore Pine – Arbutus
- CDFmm RR/00: Rural Residential



Figure 3. Property Ecosystems: (2814: 100% Douglas-fir – Onion Grass, Young Forest; 2818: 100% Douglas-Fir-Salal, Young Forest; 2966: 100% Douglas-Fir-Salal, Young Forest; 3955: 100% Douglas-fir - Shore Pine – Arbutus, Young Forest; 4077: 100% Rural Residential (Islands Trust (MapIT) 2020).

Woodland Ecosystem DPA

Portions of the property have been locally designated as a Woodland Ecosystem DPA by the Islands Trust. This designation includes forest such as open deciduous, and mixed deciduous conifer. They are generally restricted to areas with shallow soils on south-facing slopes in areas with extremely dry summers. The Woodland Ecosystem DPAs present are designated as Douglas-fir – Shore Pine - Arbutus, and Douglas-fir-Onion grass (Figure 4).



Figure 4. Woodland Ecosystem DPA within the subject property. 2814: 100% Douglas-fir – Onion Grass, Young Forest; 3955: 100% Douglas-fir - Shore Pine – Arbutus, Young Forest (Islands Trust (MapIT) 2020)

3.0 Site Inventory

Dan Baxter (B.Sc., R.P.Bio) and Erin O'Brien (Ph.D.) of Caurinus Environmental conducted a site visit and review of current information pertaining to the subject property and surrounding areas in September 2020. The review included online satellite imagery, reports, independent studies and recent Terrestrial Ecosystem Mapping (TEM). The subject property is accessed from Lighthouse Lane (Figure 2). The property begins on the south side of the roadway and continues in a southeasterly direction until it connects with Shoal Road. The property has been previously disturbed by historic land use and recent logging in the Woodland Ecosystem DPA and much of it is in a state of regeneration.

3.1 Conservation Data Centre

British Columbia Conservation Data Centre (CDC) is an extension of the Ministry of Environment and Climate Change Strategy and is the provincial coordinator of tracking rare and endangered species (native plants, animals, and natural plant communities) in British Columbia on provincial, national and international levels. Documented locations of sensitive (at-risk or endangered) and non-sensitive species were reviewed for the area using a 1 km search radius; no known sensitive species occurrences have been reported in the area (Data review: September 29, 2020).

3.2 Flora

The ecosystems on the property categorized by the Islands Trust (Figure 3) were as follows:

- **2818: 100% Douglas-Fir-Salal, Young Forest**
- **2966: 100% Douglas-Fir-Salal, Young Forest**
- **4077: 100% Rural Residential**
- **2814: Development Permit Area 1: Woodland Sensitive Ecosystem – 100% Douglas-fir – Onion Grass, Young Forest**
- **3955: Development Permit Area 1: Woodland Sensitive Ecosystem – 100% Douglas-fir - Shore Pine – Arbutus, Young Forest**

The following section summarizes the provincial Terrestrial Ecosystem Mapping TEM - ecosystems found on the subject property site. The following ecosystems were identified in a literature review and confirmed during the survey of the property:

Woodland - CDFmm: Coastal Douglas-fir Zone, Moist Maritime

- **CDFmm DA/02: Douglas-fir – Shore pine – Arbutus**

This forested ecosystem is dominated by Douglas-fir and arbutus with shore pine (*Pinus contorta contorta*) occurring on the driest and poorest sites. In areas with rock outcrops and/or small islands, Garry oak can also occur. Forest canopies are discontinuous with large gaps, due to rock outcrops and pockets of shallow soil. Typically found on drier, poorer sites including crests, upper slopes, and warm aspects. Soils are shallow, mostly medium-textured ranging from fine sand to silty loam and have a very dry moisture regime with a very poor to medium soil nutrient regime. Some have a thin soil deposited by glacial melt water or till origin overlying bedrock. Drainage ranges from very rapid to well. The shrub layer is diverse drought-tolerant shrubs such as hairy honeysuckle (*Lonicera hispidula*), nootka rose (*Rosa nutkana*), Oregon grape, oceanspray, salal with saskatoon (*Amelanchier alnifolia*) being present in minor amounts. The herb layer usually includes Columbia brome (*Bromus vulgaris*), purple peavine (*Lathyrus nevadensis*), orange honeysuckle (*Lonicera ciliosa*), broad-leaved starflower (*Trientalis latifolia*), white fawn lily (*Erythronium oreganum*), Pacific sanicle (*Sanicula crassicaulis*), and trailing blackberry (*Rubus ursinus*).

The Douglas-fir – Shore pine – Arbutus plant community is provincially **Red** Listed (B.C. List Status 2020) and is ranked S1 (critically imperiled; Provincial Conservation Status 2020) in British Columbia. This critically imperiled habitat is situated in coastal areas with favourable scenic aspects and is in high demand for new and re-development in the region. In the entire Coastal Douglas-fir Zone, due to continued development pressures, only ~0.5% has been identified as mature or old forest (BC's Coast Region: Species & Ecosystems of Conservation Concern 2010). Historically, this ecological community has experienced significant declines as a result of extensive past timber harvesting, grazing, and extensive rural and urban development. Threats include development, agriculture, fire suppression, invasive species, recreational use, grazing and browsing by domestic livestock and the overabundance of black-tailed deer (*Odocoileus hemionus columbianus*; BC's Coast Region: Species & Ecosystems of Conservation Concern 2010).

- **CDFmm DO/03: Douglas fir – Onion Grass**

The tree layer of this habitat classification is dominated by Douglas-fir with Garry oak present on warm aspects; arbutus is the only other tree species present. It is typically found on crests and upper slopes where bedrock is near the surface or forms outcrops. Soils are shallow, mostly sandy loamy, often with moderate coarse fragments, but can be deeper where Garry oak is present. The shrub layer is sparse with small amounts of oceanspray and hairy honeysuckle as well as regeneration of the overstory species. The herb layer is diverse with many annual and perennial species.

The Douglas-fir/onion grass plant community is provincially **Red** Listed (B.C. List Status 2020) and is ranked S1 (critically imperiled; Provincial Conservation Status 2020) in British Columbia. This rare ecological community occurs within a very small but highly urbanized range. Historically, this community has a very restricted range, and occurs infrequently in mostly small patches within the natural landscape. Of the remaining ~1%, only 3 km² has been identified as mature or old forest (BC Ministry of Water, Land and Air Protection 2004). This ecological community has experienced significant declines as a result of permanent conversion to urban land cover, rural developments, and road infrastructure. This habitat is situated in areas with favourable scenic aspects and is in high demand for new and re-development in the region; hence, it has been depleted to near-extirpation in British Columbia. Threats include development, agriculture, fire suppression, invasive species, recreational use, grazing and browsing by domestic livestock and the overabundance of black-tailed deer (BC Ministry of Water, Land and Air Protection 2004).

- **CDFmm DS/01: Douglas-fir – Salal**

Forested site dominated by Douglas-fir with association with grand fir (*Abies grandis*) and Western redcedar. Typical site conditions for zonal DS forests are mid to upper slope positions and gentle topography. Soils are most often moderately-well to well drained and medium-textured loamy soils. Understory species can include snowberry, pinegrass (*Calamagrostis rubescens*), birch-leaved spirea (*Spiraea betulifolia*), salal, dull Oregon-grape (*Mahonia nervosa*), oceanspray, sword fern and Oregon beaked moss (*Eurhynchium oreganum*).

Rural Residential - CDFmm: Coastal Douglas-fir Zone, Moist Maritime

- **CDFmm RR/00: Rural Residential**

The Rural Residential classification describes any area that has undergone modifications by which residences and other human developments have altered the natural habitat such that natural processes and functions have been hampered and native plant communities are not supported.

Habitat description

The subject property was assessed during the site visit for the possible occurrence of all provincially Red- and Blue-listed species as well as federal Species at Risk Act-scheduled species.

Site Inventory Description:

All ecosystem types present on the property have been previously disturbed to some extent, either from clearing for development or selective logging. For the purposes of this assessment, the vegetation survey was focused on the *Woodland Ecosystem DPAs (2814 & 3955)*, where tree felling and development have already occurred. The area around the north side of the property in Woodland Ecosystem DPA (3955) is characterized by historical disturbance in the form of the current residence, a fenced off yard and historical tree removal, as well as recent felling of two mature arbutus near the dwelling (Plate 1). Recent felling of mature trees has also occurred in the Woodland Ecosystem DPA (2814), with 12 mature Douglas-fir having been cut (Plate 2). The diameter of the 14 felled trees was estimated as the average of two perpendicular measurements taken on the remaining stumps (Table 1).

Plant species detected during the site survey are presented in Table 2; invasive species detected included Scotch broom (*Cytisus scoparius*), Spurge-laurel (*Daphne laureola*) and Canada thistle (*Cirsium arvense*). No species at risk were detected during the vegetation survey. However, the timing of our inventory (fall) would not preclude the potential occurrence of rare species at some other point during the growing season (this would apply to all plant species). Given the prior disturbance to the area, however, it is unlikely such species would be found on site.

Plate 1. Recently felled arbutus (showing new basal shoot growth) within Woodland Ecosystem DPA (Douglas-fir – Shore pine – Arbutus) at 2634 Lighthouse Lane, Pender Island BC.



Plate 2. Recent Douglas-fir felling within Woodland Ecosystem DPA (Douglas-fir – Onion Grass) at 2634 Lighthouse Lane, Pender Island BC.



Table 1. Species and stump diameter of trees felled at 2634 Lighthouse Lane, Pender Island, BC.

Tree Type	Stump Diameter (cm)
Arbutus	62
Arbutus	51.25
Douglas-fir	63
Douglas-fir	65
Douglas-fir	41
Douglas-fir	50.5
Douglas-fir	38
Douglas-fir	71
Douglas-fir	81.5
Douglas-fir	104
Douglas-fir	57
Douglas-fir	59
Douglas-fir	45
Douglas-fir	21.5

Table 2. List of plant species detected within the Woodland DPA at 2634 Lighthouse Lane, Pender Island, BC.

Common Name	Scientific Name	Origin Status ¹	BC Status ²	BC List ³	COSEWIC ⁴
Baldhip rose	<i>Rosa gymnocarpa</i>	Native	S5	Yellow	Not Listed
Salal	<i>Gaultheria shallon</i>	Native	S5	Yellow	Not Listed
Hairy honeysuckle	<i>Lonicera hispidula</i>	Native	S5	Yellow	Not Listed
Rose campion	<i>Silene coronaria</i>	Exotic	SNA	Exotic	Not Listed
Oregon grape	<i>Mahonia nervosa</i>	Native	S5	Yellow	Not Listed
Foxglove	<i>Digitalis purpurea</i>	Exotic	SNA	Exotic	Not Listed
Scotch broom	<i>Cytisus scoparius</i>	Exotic	SNA	Exotic	Not Listed
Spurge-laurel	<i>Daphne laureola</i>	Exotic	SNA	Exotic	Not Listed
Grass sp.	-----	----	----	----	----
Canada thistle	<i>Cirsium arvense</i>	Exotic	SNA	Exotic	Not Listed
Arbutus	<i>Arbutus menziesii</i>	Native	S5	Yellow	Not Listed
Douglas-fir	<i>Pseudotsuga menziesii</i>	Native	S5	Yellow	Not Listed

¹Origin Status: <https://ibis.geog.ubc.ca/biodiversity/eflora/>

²BC Status: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/conservation-data-centre/explore-cdc-data/status-ranks>

<https://explorer.natureserve.org/AboutTheData/Statuses>

³BC List: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/conservation-data-centre/explore-cdc-data/red-blue-yellow-lists>

⁴COSEWIC: <http://www.cosewic.ca/index.php/en-ca/assessment-process/wildlife-species-assessment-process-categories-guidelines/status-categories>

3.3 Fauna

During the site visit, all provincially Red- and Blue-listed species as well as Species at Risk Act-scheduled species were assessed for possible occurrence on the subject property. This wildlife assessment only considers vertebrate animals. The study area was carefully assessed for evidence of recent or past use by wildlife species. The following species were detected during the survey of the property:

Birds

Twelve bird species were observed on or adjacent to the property during the site visit, with no species at risk detected (Table 3). The birds detected on site are typical for the area in early autumn; however, the timing of our inventory would not preclude the potential occurrence of additional (and potentially rare) bird species on the subject property at some other point during the season, particularly migratory species. No heron or raptor nests were detected during the site visit.

Table 3. List of bird species detected at 2634 Lighthouse Lane, Pender Island, BC.

Common Name	Scientific Name	Origin Status ¹	BC Status ²	BC List ³	COSEWIC ⁴
Red Crossbill	<i>Loxia curvirostra</i>	Native	S5	Yellow	Not Listed
Red-breasted Nuthatch	<i>Sitta canadensis</i>	Native	S5	Yellow	Not Listed
Golden-crowned Sparrow	<i>Zonotrichia atricapilla</i>	Native	S5B	Yellow	Not Listed
Anna's Hummingbird	<i>Calypte anna</i>	Native	S4S5	Yellow	Not Listed
Northern Flicker	<i>Colaptes auratus</i>	Native	S5	Yellow	Not Listed
Hutton's Vireo	<i>Vireo huttoni</i>	Native	S4	Yellow	Not Listed
Song Sparrow	<i>Melospiza melodia</i>	Native	S5	Yellow	Not Listed
Pacific Wren	<i>Troglodytes pacificus</i>	Native	S5	Yellow	Not Listed
Chestnut-backed Chickadee	<i>Poecile rufescens</i>	Native	S5	Yellow	Not Listed
Pine Siskin	<i>Spinus pinus</i>	Native	S5B	Yellow	Not Listed
Spotted Towhee	<i>Pipilo maculatus</i>	Native	S5	Yellow	Not Listed
Dark-eyed Junco	<i>Junco hyemalis</i>	Native	S5	Yellow	Not Listed

¹Origin Status: <https://ibis.geog.ubc.ca/biodiversity/efauna/>

²BC Status: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/conservation-data-centre/explore-cdc-data/status-ranks>

<https://explorer.natureserve.org/AboutTheData/Statuses>

³BC List: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/conservation-data-centre/explore-cdc-data/red-blue-yellow-lists>

⁴COSEWIC: <http://www.cosewic.ca/index.php/en-ca/assessment-process/wildlife-species-assessment-process-categories-guidelines/status-categories>

Mammals

One species of mammal was detected during our site visit (Table 4), and no species at risk were detected. We detected black-tailed deer in the form of pellets at multiple locations on the property. Other mammals that may be on site but which were not directly surveyed include small rodents and bats. Suitable habitat for bat roosting and nursery sites include clefts in steep rock outcrops and standing dead trees with hollow interiors or flaking bark (Nagorsen and Brigham 1993); these features are present on the subject property and may support roosting or hibernating bats.

Table 4. List of mammal species detected at 2634 Lighthouse Lane, Pender Island, BC.

Common Name	Scientific Name	Origin Status ¹	BC Status ²	BC List ³	COSEWIC ⁴
Black-tailed Deer	<i>Odocoileus hemionus columbianus</i>	Native	S5	Yellow	Not Listed

¹Origin Status: <https://ibis.geog.ubc.ca/biodiversity/efauna/>

²BC Status: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/conservation-data-centre/explore-cdc-data/status-ranks>

<https://explorer.natureserve.org/AboutTheData/Statuses>

³BC List: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/conservation-data-centre/explore-cdc-data/red-blue-yellow-lists>

⁴COSEWIC: <http://www.cosewic.ca/index.php/en-ca/assessment-process/wildlife-species-assessment-process-categories-guidelines/status-categories>

Amphibians and Reptiles

One species of reptile was detected during our site visit (Table 5), and no species at risk were detected. We detected two common garter snakes (*Thamnophis sirtalis*) in the fenced area directly behind the residence (Plate 3). The property provides excellent foraging habitat for the garter snakes, and the northwest side of the property in Woodland Ecosystem DPA (2814) has a suitable southern exposure with a rocky outcrop (Plate 4) that provides basking areas, shelter from direct sunlight, as well as protection from predators. Further, crevices in the rocky outcrops provide excellent breeding nursery and hibernation habitat for a variety of snake species (Ovaska *et. al.* 2004). This area also provides potential habitat for the endangered Sharp-tailed Snake (*Contia tenuis*; Habitat Acquisition Trust 2015) and should be investigated further.

Plate 3. Common garter snake detected during bioinventory of Woodland Ecosystem DPA at 2634 Lighthouse Lane, Pender Island BC.



Plate 4. Rocky outcrop in Woodland Ecosystem DPA (2814) located at 2634 Lighthouse Lane, Pender Island BC, providing suitable reptile habitat.



Table 5. List of reptile species detected at 2634 Lighthouse Lane, Pender Island, BC (Species listing status data: BC Conservation Data Centre 2020).

Common Name	Scientific Name	Origin Status	BC Status ¹	BC List ²	COSEWIC ³
Common Garter Snake	<i>Thamnophis sirtalis</i>	Native	S5	Yellow	Not Listed

¹Origin Status: <https://ibis.geog.ubc.ca/biodiversity/efauna/>

²BC Status: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/conservation-data-centre/explore-cdc-data/status-ranks>

<https://explorer.natureserve.org/AboutTheData/Statuses>

³BC List: <https://www2.gov.bc.ca/gov/content/environment/plants-animals-ecosystems/conservation-data-centre/explore-cdc-data/red-blue-yellow-lists>

⁴COSEWIC: <http://www.cosewic.ca/index.php/en-ca/assessment-process/wildlife-species-assessment-process-categories-guidelines/status-categories>

3.4 On Site Land Use

The majority of the property lies within a Woodland Ecosystem DPA (2814 & 3955; Figure 4), with the dwelling and fenced backyard located within Woodland Ecosystem DPA (3955). Historically, the Woodland Ecosystem DPA (2814) on the subject property was left relatively undisturbed prior to the recent felling of trees (Figure 5). Recent disturbance on the property consisted of the removal of 14 trees from the canopy in the Woodland Ecosystem DPA (Figure 6; Plates 5-7).



Figure 5. View of subject property (2013) before tree removal (Islands Trust MapIT 2020).



Figure 6. Current view of subject property after tree removal (Islands Trust MapIT 2020).

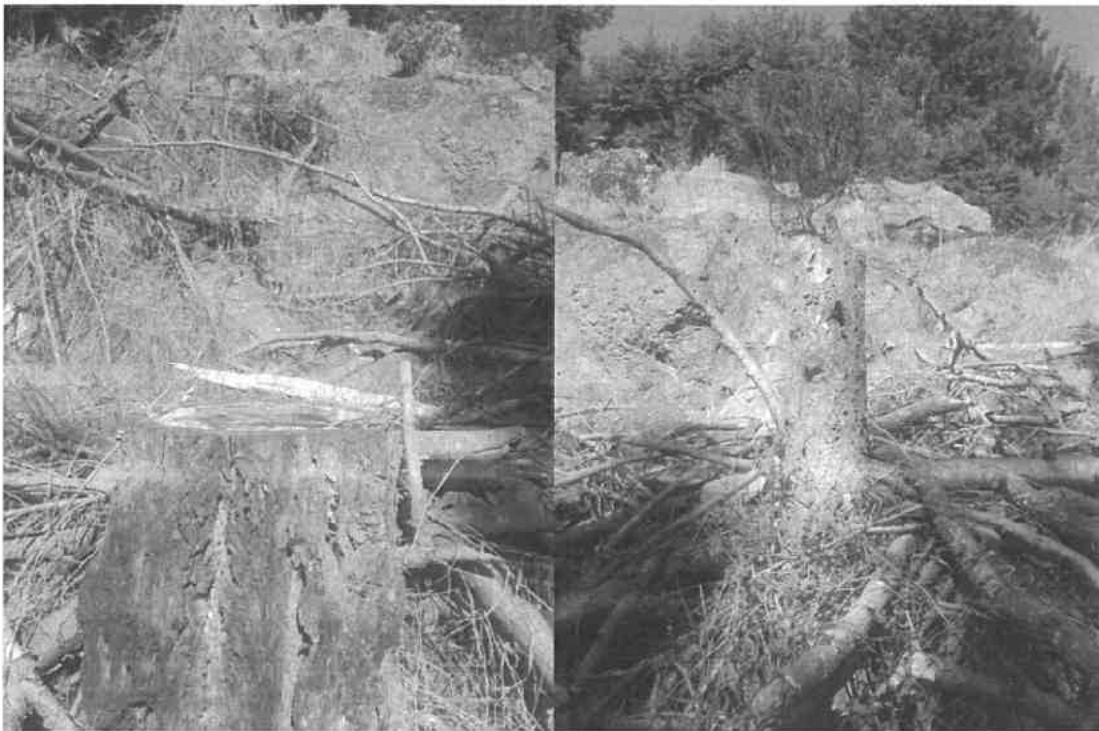
Plate 5. South side of residence on subject property showing two representative Douglas-fir stumps located in Woodland Ecosystem DPA (2814) at 2634 Lighthouse Lane, Pender Island BC.



Plate 6. Representative arbutus stump in Woodland Ecosystem DPA (3955) at 2634 Lighthouse Lane, Pender Island BC. Note basal shoots emerging from stump.



Plate 7. Representative Douglas-fir stumps in Woodland Ecosystem DPA (2814) at 2634 Lighthouse Lane, Pender Island BC.



4.0 Impact Assessment

The Woodland Ecosystem DPA has been disturbed by the unpermitted removal of 14 trees from the forest canopy to provide better ocean views from the residence. The areas of canopy tree removal are now subject to increased sunlight reaching the forest floor, increasing soil moisture loss (and associated fire hazard), and are now significantly more vulnerable to the introduction and spread of non-native species (particularly Scotch broom) through seed dispersal and establishment. This tree loss contributes further to the ongoing fragmentation of threatened, rare Coastal Douglas-fir forest ecosystems in our region. The loss of vertical structure and canopy cover that accompanies tree felling leads to the loss of ecosystem services (e.g. soil health and stabilization, carbon storage) and biodiversity (Gayton & Lara Almuedo 2012), and this structure will take many decades to restore. Cleared areas in forests attract herbivores such as deer, which also increases browsing pressure on regenerating seedlings (Côté *et al.* 2004); this is of particular concern in the present case given the overabundance of deer on the Pender Islands. Finally, the removal of standing trees increases the probability of blow-down of remaining trees in a forest stand due to increased wind exposure and loss of the physical support provided by surrounding growth (Scott & Mitchell 2005).

5.0 Mitigation and Restoration

The removal of mature trees on the subject property was contrary to the overall objective of the Woodland Ecosystem DPA as designated in the North Pender Island Official Community Plan (2007). The **Red-listed** Douglas-fir – Onion Grass and Douglas-fir – Shore pine – Arbutus habitats within the Woodland Ecosystem DPA (see Figure 4) both require restoration (invasive plant removal and revegetation; see recommendations below) to ensure that this contiguous section of rare habitat remains intact, and to prevent further seeding of non-native species into the Woodland Ecosystem DPA. In forests with minimal disturbance, it is preferable to allow the forest to regenerate naturally with seedlings that are typically already present in the understory (Drengson and Taylor 2008). However, due to the recent removal of trees from the canopy on the subject property throughout much of the DPA (Plates 5-7), replanting and ongoing maintenance to replace the trees that have been lost will be necessary. In addition, retention of all remaining trees currently present in the Woodland Ecosystem DPA on the subject property will help stimulate natural canopy tree regeneration, since mature Douglas-fir and arbutus provide a source of seed, as well as nutrient transfer via root-associated fungi to assist with seedling establishment. Snags (standing dead trees) provide nest sites and a source of food in the form of insects for many avian species [e.g. brown creeper (*Certhia americana*) red-breasted nuthatch (*Sitta canadensis*) and woodpeckers] as well as providing shelter for Pacific tree frogs (*Pseudacris regilla*), several species of bats, and many invertebrates. Large woody debris on the forest floor is also essential for wildlife habitat, as well as to facilitate long-term soil nutrient inputs via decomposition (Strahm *et al.* 2005; Littke *et al.* 2020). Hence all remaining live and standing dead trees, as well as woody debris, must be retained within the Woodland DPA.

The trees removed from the property consisted of two arbutus (DBH 62 and 51.25 cm; Table 1) and twelve Douglas-fir (DBH range 21-104 cm; Table 1). Tree species used in replanting should be selected to suit the soil, light and groundwater conditions of the site, should be native to the region, and should be selected for wildlife habitat values as needed. The subject property is south-facing and so receives significant direct sun exposure during the summer; hence pioneer species that tolerate high light conditions should be planted to provide shade for later successional species such as Western redcedar. We suggest revegetation with Douglas-fir, as it is well suited to the soil characteristics in the area and can tolerate relatively exposed sites (BC Ministry of Farming, Natural Resources and Industry 2020). Currently there is evidence of secondary growth (basal shoots) on the two arbutus stumps (Plate 8); this secondary growth should be protected from deer browsing and left free to grow

in order to replace the two felled mature arbutus. Once a main stem from an arbutus is cut, it can produce sprouting which originates from dormant buds near the root collar. These sprouts provide reliable regeneration and have rapid growth potential due to carbohydrate reserves and soil access provided by pre-existing roots (Oregon State University 2020). Sprouts may grow as much as 1.5 m in height in partially shaded areas the first year and attain an average height of 3 m after three years. This rapid growth of sprouts around stumps can make arbutus a superior competitor in the new open stand and has the potential to replace logged arbutus trees faster than new seedlings (Oregon State University 2020). In contrast, propagation of arbutus from seed is associated with very high mortality (90-100%; Niemiec *et al.* 1995), and so planting of arbutus seedlings to replace the felled trees on the subject property is unlikely to be successful.

Plate 8. View of arbutus stumps with basal shoots in Woodland Ecosystem DPA (3955) at 2634 Lighthouse Lane, Pender Island BC.



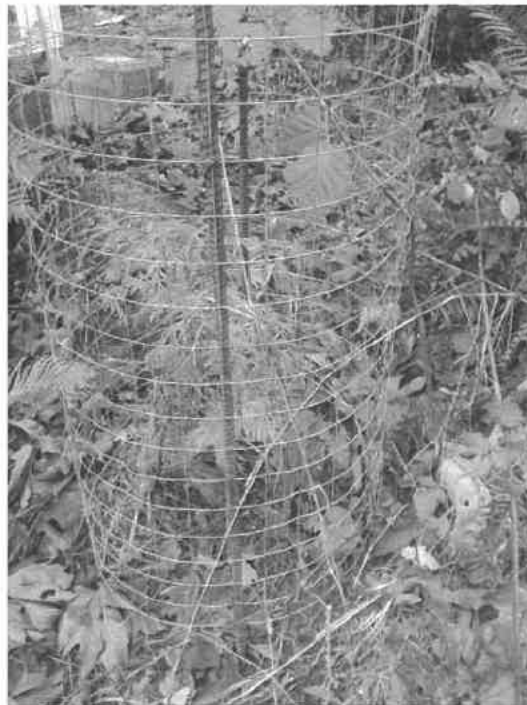
The criteria below apply to the replacement of trees under the Fisheries Act, Wildlife Act or Land Title Act by the BC Ministry of Forests, Lands, Natural Resource Operations and Rural Development:

- 0 mm - 151 mm (6") DBH - 2 replacement trees or 4 shrubs (for up to 50% of trees being replaced in this range);
- 152 mm - 304 mm (12") DBH - 3 replacement trees
- 305 mm - 456 mm (18") DBH - 4 replacement trees
- 457 mm - 609 mm (24") DBH - 6 replacement trees
- 610 mm - 914 mm (36") DBH - 8 replacement trees
- Trees > 914 mm DBH (36") - will require individual approval and replacement criteria prior to removal.
- DBH = diameter at breast height, approximately 1.5 m

These replanting prescriptions, however, are derived from forest growth and yield models used in an industrial forest management context in British Columbia, which incorporate variable but significant tree mortality

estimates (Weiskittel *et al.* 2011). Hence, these numbers exceed the desired final stem density of a mature stand. In the present context, given that the property owner will be required to ensure 100% tree survival (including replacement of dead or dying stock as necessary), it is reasonable to require that the number of plantings achieve a moderate mature stand density that minimizes seedling competition and maximizes growth response, as would be required in managed coastal Douglas-fir stands (~400 stems per hectare, sph; Stone 1993). The twelve mature Douglas-fir and two arbutus trees removed from the Woodland Ecosystem DPA on the subject property occupied an area of ~ 800m² (0.08 ha; Figure 6); to achieve a final stand density of 400 sph, this would therefore require the replanting and establishment of 32 trees in the affected area. These plantings (and arbutus shoots) must be sufficiently protected and irrigated as necessary to allow them to reach a free-to-grow stage (~1.5m in height). Factoring in the two existing arbutus shoot clumps that will be maintained, a total of 30 Douglas-fir seedlings must therefore be planted and maintained throughout the cleared area of the DPA on the subject property. Protection of all plantings and arbutus shoots from deer browsing should use wire exclusion fencing (see Plate 9) until the trees are established and reach a height of at least 1.5 m. Exclusion fencing diameter should be increased as seedlings grow, to ensure protection of lateral branches as well as the central leader.

Plate 9. Example of browse exclusion fencing to be installed around planted seedlings and arbutus shoots.



Scotch broom modifies soil chemistry and prevents native species from establishing, shades out native species, and competes with native plants for access to pollinators, and hence it is critical that it be eliminated from the subject property to restore it to a healthy and diverse native plant community. Removal should be achieved by cutting larger plants at or just below the ground to avoid soil disturbance and erosional loss, as well as to reduce germination of seeds contained in the soil seed bank. (Germination is enhanced in newly disturbed soil.) Cutting plants when they are in full bloom in the spring will minimize resprouting, as all nutrients have been moved from roots into above ground parts. It will take many years before Scotch broom will be fully removed from this landscape as there will be a considerable seed bank that can persist for many decades, so this will require ongoing removal efforts.

The following summarizes restoration measures that will help retain and enhance ecological value within the Woodland Ecosystem DPA and the property as a whole, in addition to beginning to restore the specific damage done to the forest ecosystem in the DPA by tree felling:

1. Based on our professional opinion and in consultation with a professional forester, we recommend planting small seedlings as the best way to ensure tree root systems are able to develop undisturbed and to avoid transplant stress commonly associated with larger nursery stock. Planting small seedlings is also less invasive and can be done by hand rather than bringing in equipment to plant larger trees. This is especially relevant because replanting will be occurring in the sensitive Woodland Ecosystem DPA, in part on a rocky and relatively steep slope.
2. Tree species used in replanting should be selected to suit the soil, light and groundwater conditions of the site, should be native to the area, and should be selected for wildlife habitat values as needed. Due to its tolerance of high light and low moisture conditions as a pioneer species in our region, we recommend planting Douglas-fir. Seedlings should be sourced from a native plant nursery that provides stock of local origin to ensure adaptation to the climatic conditions of our region. Revegetation within the DPA will be completed in consultation with a QEP or professional landscape architect/designer specializing in native plant seedling placement, planting and care.
3. Newly planted trees and shrubs require little maintenance; however, until they reach a sufficient height, protection from wildlife browsing will be necessary. It is recommended that exclusion fencing be used to protect new seedlings and arbutus shrubs from animal damage (Plate 9). Fencing should be expandable to allow for plant growth while still ensuring protection from browsing. Barriers should start close to the ground and extend past the reach of deer, at least 1.5 m in height.
4. All new trees must be maintained by the property owner to ensure survival. For canopy trees, this is typically required until they have reached a suitable "free to grow" stage of 1.5 m. Maintenance may require browsing exclusion fencing (see above), removal of invasive weeds (e.g., Himalayan blackberry (*Rubus armeniacus*), Scotch broom), and some irrigation may also be necessary to ensure seedling establishment; however, the species we have recommended for planting is generally drought tolerant once the roots are established. Unhealthy, dying or dead stock should be replaced in the next regular planting season.
5. Sprouts around the arbutus stumps (Plate 8) should be thinned after dominant stems have emerged, at 5 to 10 years. Thinning should select well-formed, dominant stems that originate near the ground and are evenly distributed around the stump.
6. To maintain ecological integrity of the Woodland Ecosystem DPA, further tree removal must not occur. This includes standing dead trees (snags), as these features provide critical habitat for many species of birds, bats, and invertebrates. Any existing seedlings or young trees should be managed to provide the best opportunity for survival (e.g. removal of competing vegetation and non-native species as needed).
7. Retention of all mature trees currently present in the Woodland Ecosystem DPA on the property will help stimulate the natural tree regeneration process, since mature Douglas-fir and arbutus provide a source of seed for future regeneration, and root-associated fungi will assist with nutrient transfer to newly planted seedlings.
8. The removal of invasive species (particularly Scotch broom) is recommended throughout the entire property, including the Woodland Ecosystem DPA, to prevent their continued spread and improve the quality of natural areas. See above for specific removal recommendations.
9. Minimize disturbance and maintain undeveloped habitat in as natural a state as possible.
10. Landscaping and restoration within the Woodland Ecosystem DPA on the subject property should be conducted using only native plant species.

11. Any hired contractors should inspect their equipment, footwear and vehicles to ensure they do not transport invasive plant seeds onto or off the property. All equipment should be washed prior to arrival. Manual removal of weeds should be performed regularly.
12. Tree planting should be conducted in the early spring (Feb – March) or late fall (Oct – Nov) to allow tree roots to establish outside of the peak drought season. This will reduce the chance of seedling mortality and need for replacement of growing stock.

6.0 Site Monitoring

A follow-up site visit by a Qualified Environmental Professional (QEP) is recommended once revegetation of the affected area in the DPA is completed, to assess the effectiveness of the proposed restoration procedures. Further follow-up visits by a QEP may also be required to evaluate tree survival in future growing seasons, and to ensure progress of invasive species removals throughout the subject property. We recommend annual follow-up visits for 5 years following replanting to ensure seedling survival and establishment.

7.0 Conclusion

The Woodland Ecosystem DPA at 2634 Lighthouse Lane, Pender Island BC includes provincially **red-listed** Douglas-fir – Onion Grass and Douglas-fir – Shore pine – Arbutus habitats, both of which are being rapidly lost throughout coastal British Columbia due to land conversion and development. Recent disturbance in the form of felling 14 mature trees (arbutus and Douglas-fir) on the subject property has removed the canopy and associated habitats, and altered light conditions from a shaded forest to an open rocky slope subject to drought and erosion. Restoration of the Woodland Ecosystem DPA is therefore necessary and must include revegetation and browse protection of native canopy trees as well as ongoing invasive species removal. We recommend replanting and establishment of 30 Douglas-fir seedlings throughout the affected DPA area, as well as the retention and maintenance of existing basal shoots regenerating from the two arbutus stumps. These plantings will be sufficient to restore the canopy trees that were removed from the Woodland Ecosystem DPA, and over time will restore the ecological function of the forest ecosystems present, providing they are sufficiently protected and watered as necessary to allow them to reach a free-to-grow stage (~1.5m in height). It is our opinion that the guidelines and recommendations we have outlined above will ensure that further detrimental impacts to the sensitive and threatened ecosystems on the subject property can be avoided. If you have any questions or comments, please contact the undersigned at your convenience.

Respectfully submitted,



Dan Baxter, B.Sc., R.P.Bio
Project Manager



Erin O'Brien, Ph.D.
Director of Science



Caurinus Environmental



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From: Caurinus Environmental [REDACTED]
Sent: Wednesday, January 19, 2022 2:05 PM
To: Phil Testemale
Subject: Re: Estimate for Restoration Planting and Monitoring

Hi Phil,

I reached out to some local landscaping companies, but have not heard any responses. All I can give you is a rough estimate based on other projects we have worked on.

- 1) The cost of the seedlings, exclusion fencing and planting/installation;
The cost of 30 Douglas-firs will be approximately: $(30 \times \$5.00) = \150.00
Planting/Installation: 1 landscapers **\$75/h @ 8 hours: \$600.00**
\$225/week for irrigation for July and August (8 weeks): \$1800.00
June and Sept (4 weeks): \$900.00
Ongoing maintenance (2 days a week @ 12 weeks):
(replanting and or watering - 5 years): \$8400.00
Total (5 years): \$11,850.00

- 2) The cost of conducting an annual monitoring inspection and a letter to Islands Trust for the five (5) years.
Monitoring: monitor property, and to write up Progress Report: $3 \text{ h} \times \$125/\text{h} = \375
Total (5 years): \$1875.00

I may hear from a landscaper in the next few days but this is my best estimate excluding taxes.

Dan



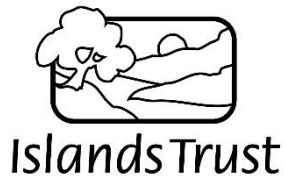
Caurinus Environmental

*3601 Masthead Cr.
Pender Island, BC V0N 2M2
Dan Baxter (B.Sc., R.P.Bio.): (250) 222-4571
Erin O'Brien (Ph.D.): (250) 222-0370*



On Tue, Jan 18, 2022 at 1:29 PM Phil Testemale <ptestemale@islandstrust.bc.ca> wrote:

Thanks Dan - Phil



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT NP-DP-2021.8**

To: Angela Bryne and Denver Clarke

1. This Development Permit (the "Permit") applies the land described below and all buildings, structures and other developments therein:

LOT 37, SECTION 9, PENDER ISLAND, COWICHAN DISTRICT, PLAN 21928
PID: 003-366-731

2. This Development Permit NP-DP-2021.8 authorizes the restoration planting as indicated in Schedule 'A' within **Development Permit Area ('DPA') 1 – Woodland Sensitive Ecosystem**, subject to the following requirements and conditions:

Mitigation and Restoration (Tree Replacement & Retention)

- a. Thirty (30) Douglas-fir small seedlings shall be planted in pockets of deeper soil, which on the subject property in the Restoration Areas as shown on Schedule 'A' attached to and forming part of this permit.
- b. The Douglas-fir seedlings used in replanting shall be selected to suit the soil, light and groundwater conditions of the site, should be native to the region, and should be selected for wildlife habitat values as needed.
- c. Secondary growth (basal shoots) on the two arbutus stumps identified in the QEP report and shall be protected from deer browsing and left free to grow.
- d. All restoration planting shall occur in the spring (Feb-Mar) or late fall (Oct- Nov) to allow for plant root establishment and soil stabilization before being exposed to the peak drought season or winter precipitation.
- e. All replanting shall be maintained by the property owner including necessary irrigation until the saplings reach a height of 1.5 metres to ensure survival. Unhealthy, dying or dead stock shall be replaced at the owner's expense in the next regular planting season.
- f. All replacement trees and secondary growth (basal shoots) shall be protected from foraging by wildlife by the use of exclusion fencing consisting of expandable metal cages and/or fencing that starts close to the ground and is expanded and maintained until the trees reach a minimum height of 1.5 metres.
- g. All new seedling trees shall be maintained by the property owner until they have reached a suitable "free to grow" stage of 1.5 m. to include; exclusion fencing (above); removal of invasive weeds (e.g., Himalayan blackberry (*Rubus armeniacus*), Scotch broom); and irrigation as necessary to ensure seedling establishment.
- h. Unhealthy, dying or dead stock shall be replaced in the next regular planting season.
- i. To maintain ecological integrity of the ecosystem and to provide habitat, all existing trees and native plant species shall be retained including standing dead trees ("snags") within DPA1 without obtaining a new Development Permit or written exemption from the Islands Trust.

- j. There shall be no soil removal or deposit within the DPA as shown on Schedule 'A' ,attached to and forming part of this permit.

Native and Invasive Species Management (Retention, Planting & Removal)

- k. The area of DPA 1 shall be maintained in an undeveloped habitat in as natural a state as possible.
- l. Landscaping and restoration of natural areas both inside and outside the DPA 1 shall be conducted using only native plant species.
- m. The ongoing removal of invasive plant species (particularly Scotch broom) is required throughout the property, and specifically within the restoration area, to prevent its continued spread and improve the quality of natural areas.
- n. Removal of Scotch broom shall be undertaken by cutting larger plants at or just below the ground to avoid soil disturbance and erosional loss, as well as to reduce germination of seeds contained in the soil seed bank.

Construction Management

- o. Any hired contractors shall inspect their equipment and vehicles to ensure they do not transport invasive plant species seeds onto or off the property. All equipment shall be washed prior to arrival.

Monitoring

- p. A follow-up site visit by a Qualified Environmental Professional (QEP) once the revegetation is completed is required to assess the effectiveness of the restoration.
- q. The monitoring QEP(s) shall prepare and submit to the Islands Trust written confirmation of compliance with all conditions with this permit as issued within one (1) month of the restoration work being completed.
- r. The monitoring QEP(s) shall prepare and submit to the Islands Trust annual written confirmation of ongoing compliance with all conditions with this permit as issued within one (1) month of the anniversary of the initial confirmation (as above 2. q.) for a period of five (5) consecutive years.
- s. All restoration work is to be completed within twelve (12) months of the date of issuance of this permit.

- 3. Pursuant to Section 502 of the *Local Government Act*, the Local Trust Committee requires security to ensure that any conditions respecting new restoration planting and other landscape elements are satisfied:
 - a. Where the Local Trust Committee considers that a conditions in the permit respecting restoration works, landscaping, and monitoring by a QEP has not been satisfied the Local Trust Committee may undertake and complete the works required to satisfy the landscaping condition, at the cost of the permit holder, and may apply the security in payment of the cost of the works with any excess to be returned to the permit holder.
 - b. Any interest earned on the security provided under Condition 3 shall accrue to the permit holder and be paid to them immediately on return of the security or, on default, become part of the amount of the security.
 - c. The security provided by the permit holder shall be in the form of:

- I. An irrevocable letter of credit with a clause for automatic renewal, or cash equivalent.
 - II. Payable to the Islands Trust.
 - III. In the amount of 125% of the quoted landscaping cost totaling \$17,156.00 based upon the cost estimate of \$13, 725.00 confirmed by Dan Baxter, R.P. Bio. on January 19, 2022.
4. Any further development within designated Development Permit Areas will require a new Development Permit, or a Development Permit Amendment.
5. The area described herein shall be developed in accordance with the terms, conditions and provisions of this Permit, and any plans and specifications attached to this Permit, which shall form a part thereof.
6. This permit does not relieve the applicant from complying with the provisions of the North Pender Island Land Use Bylaw unless varied by this Permit.

This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of North Pender Island Land Use Bylaw No. 103, 1996 and to obtain other approvals necessary for completion of the proposed development.

**AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS
XXTH DAY OF MONTH, 2022.**

Deputy Secretary, Islands Trust

Date of Issuance

IF THE DEVELOPMENT DESCRIBED HEREIN IS NOT COMMENCED BY THE ##RD DAY OF MONTH, 2024, THIS
PERMIT AUTOMATICALLY LAPSES.

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
DEVELOPMENT PERMIT NP-DP-2021.8
SCHEDULE 'A'
Site Plan





DATE OF MEETING: January 27, 2022

TO: North Pender Island Local Trust Committee

FROM: Phil Testemale, Planner 2
Southern Team

COPY: Kim Stockdill, Island Planner

SUBJECT: Renewal of Temporary Use Permit for STVR
Applicant: Daryl Persello
Location: 2612 Harpoon Road, North Pender Island

RECOMMENDATION

1. That the North Pender Island Local Trust Committee approve issuance of renewal Temporary Use Permit NP-TUP-2021.9 (Persello) for a period of three (3) years.

REPORT SUMMARY

The purpose of the report is to consider a **renewal** Temporary Use Permit (TUP) for a Short Term Vacation Rental (STVR) within a dwelling unit.

BACKGROUND

The TUP for the STVR use was issued for property in 2018 (NP-TUP-2018.6) for three (3) years. The staff report and attachments for the initial application is available as part of the November 29, 2018 LTC agenda package (pp.137-162) here: <https://islandstrust.bc.ca/document/north-pender-ltc-regular-meeting-agenda-12/>.

The renewal will allow for the STVR use to continue in compliance with the Land Use Bylaw (LUB).

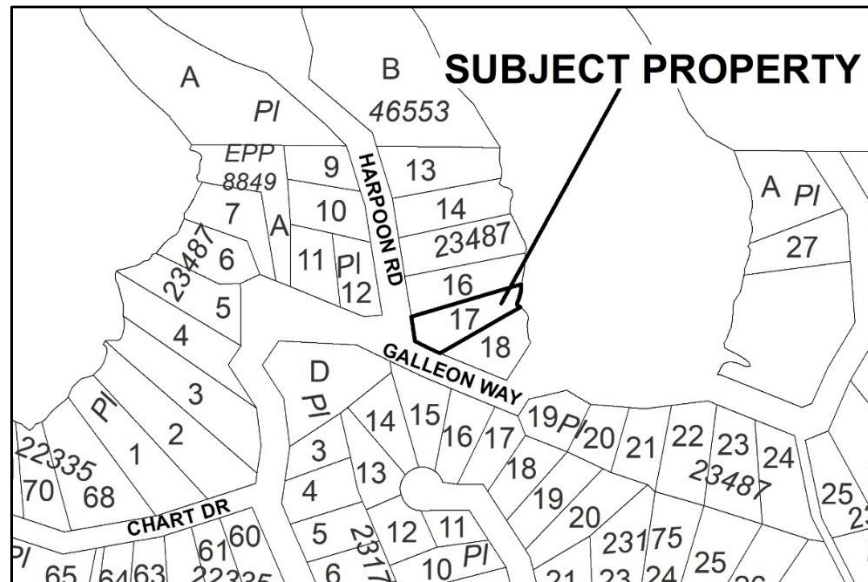
The Short Term Vacation Rental use is within an existing, 61 m² (656 ft²), two (2) bedroom manufactured home on the property. At the time of the initial application, the applicant's stated reason for the application is to help offset costs such as property tax, wi-fi, utilities, etc. The owners rent the house out for approximately 30 to 60 days per year to friends and family and through booking sites such as Airbnb, VRBO, etc.

The property is 0.19 ha (0.46 ac) in size and located on the corner of Galleon Way and Harpoon Road fronting onto the west side of Shingle Bay (see Figure 1). The property is relatively open and slopes downward from the intersection toward shingle bay. The shoreline is high bank, and is currently fenced to bar access. There are no other buildings on the property.

There is one (1) other permitted STVRs in close proximity (NP-TUP-2020.8 [Kroeker]) that is on the end of Harpoon Road (Attachment 1).

Staff have not visited the property since receiving the new application due to Provincial Health Orders for COVID 19.

Figure 1 – Location of subject property



ANALYSIS

Policy/Regulatory

Official Community Plan:

The property is designated as **RR (Rural Residential)** in the North Pender Island Official Community Plan No. 171, 2007 (OCP).

Guidelines for TUP applications for STVRs are contained in the OCP. As a renewal, there can be no changes made to the permit with the exception of the length of the issuance period. The original application was analyzed in 2018 with a TUP Checklist and was consistent with the OCP guidelines.

There are no **Development Permit Areas (DPAs)** on the subject property, however, **DPA 6 – Intertidal Sensitive Ecosystem** is designated on the water area in front of the subject property. No development activity requiring a DP is proposed. A condition for the owner to provide information to guests on sensitive ecosystems is part of the original and renewal TUP

Land Use Bylaw:

The property is zoned **Rural Residential (RR)** in the North Pender Island Land Use Bylaw No. 103, 1996. **RR** zoning permits a single-family dwelling and accessory uses.

The renewal of the TUP will allow the specific STVR use to continue on the property in compliance with the LUB.

Issues and Opportunities

Compliance - Original TUP

Staff contacted the applicant requesting confirmation that: they have complied with all conditions over the valid period of the TUP; that all contacts are current and, if they were updated, that those have been supplied to neighbours; and whether there have been any changes to the STVR use or use of the property. The applicant has confirmed in writing that they have adhered to the permit conditions.

The owners have also provided an up to date guest information package which is Attachment 2

STVR/TUP Guidelines Review

The applicant is aware that the LTC is currently reviewing existing regulations and guidelines for the operation of STVRs. At the time of writing, Bylaw No. 222 is awaiting ministerial signature and final adoption by the LTC. As it is now in a Post Public Hearing phase, the LTC cannot receive any new information on the bylaw.

With the exception of the guideline for a limitation to on the amount of days permitted in the summer months, the TUP is conforms to both the current and revised guidelines.

Consistent with most recent renewal applications for STVR (NP-TUP-2021.5 [Peagram] and NP-TUP-2021.2 [Pettyfer]), it would be reasonable to renew the permit for a three (3) year duration to enable the operation to continue and for the applicant to either make an application for new permit once the STVR policy review is complete, or to transition the business.

Applicant's Rationale & Response to Proposed Bylaw Amendments

The rationale for the proposed renewal of the temporary use permit is to help offset costs such as property tax, wi-fi, utilities, etc.

Consultation

Statutory Requirements

There is no statutory notification required for a TUP renewal application, as the permit conditions are unchanged from the original. Any change in conditions would require that the applicant re-apply for a new permit neighbouring property owners renotified.

First Nations

The renewal is for an application where the use remains in the current footprint of the existing building structure with no additional disturbance or impact to the lands or waters to ensure protection of any possible archaeological sites. Notwithstanding, to provide applicants with awareness regarding unknown archaeological areas staff will forward the Islands Trust Chance Find Protocol and the provincial Archaeological Branch guidelines on Heritage Act compliance directly to the applicants.

Rationale for Recommendation

- A three-year period is consistent with the most recent renewal applications for an STVR use.
- There have been no complaints about the STVR since the original TUP was issued in 2018;
- The guest capacity is modest at six (6);
- The application meets the current TUP guidelines of the OCP; and,

- The permit provides conditions to ensure that the use does not have an unreasonable impact on the local area, and, in the event it does, there is the ability to enforce compliance with the TUP.

ALTERNATIVES

The LTC may consider the following alternatives to the staff recommendation:

1. Renew for a different time period

The LTC may opt to approve the renewal for a shorter period. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee approve renewal application NP-TUP-2021.9 for a period of _____year(s).

2. Request further information

The LTC may request further information prior to making a decision. If selecting this alternative, the LTC should describe the specific application, the information needed and the rationale for this request. Recommended wording for the resolution is as follows:

That the North Pender Island Local Trust Committee request that the applicant for renewal application NP-TUP-2021.9 submit to the Islands Trust the following _____.

3. Deny the application (s)

The LTC may deny the application. Recommended wording for the resolution is as follows:

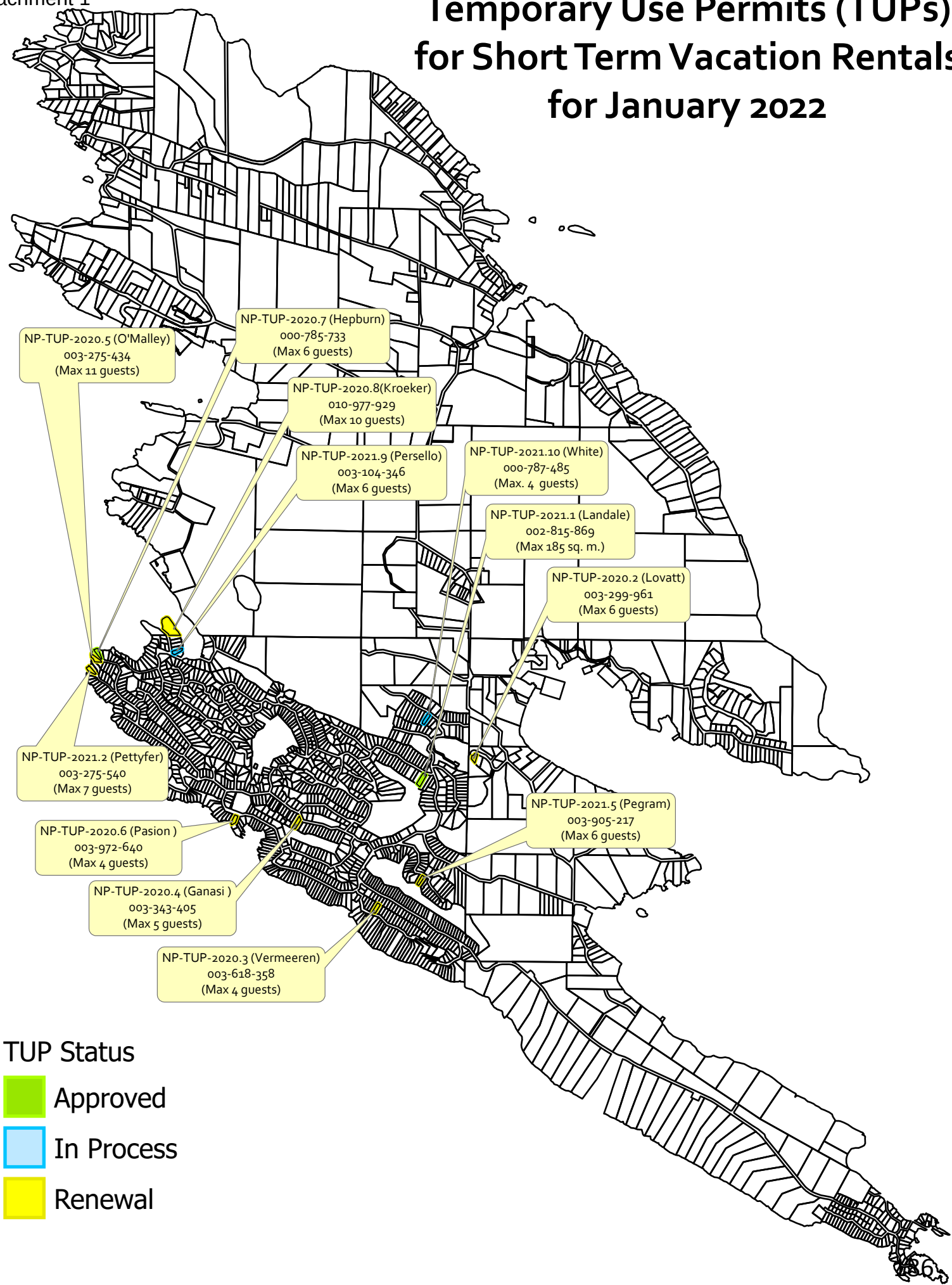
That the North Pender Island Local Trust Committee deny renewal application NP-TUP-2021.9.

Submitted By:	Phil Testemale, Planner 2	January 18, 2022
Concurrence:	Robert Kojima, Regional Planning Manager	January 18, 2022

ATTACHMENTS

1. STVR Map
2. Guest Information
3. Proposed Renewal NP-TUP-2021.9

Temporary Use Permits (TUPs) for Short Term Vacation Rentals for January 2022



TUP Status

- Approved
- In Process
- Renewal

Welcome to **SUDUGO COTTAGE**, Pender Island

We are so happy to have you here and hope that your stay would be a fun one on this great Island. We are fully equipped with all the comforts of home. Feel free to use (and enjoy) everything we have (at your own risk of course).

ADDRESS:

2612 Harpoon Rd, Pender Island

Look for a couple of **pink flamingos** that are excited to welcome you.

DOOR LOCK:

The door code is . Once the code is entered simply turn the deadbolt to open. There is a key in the lock box (next to the front door)- code: in case you have trouble with the automatic lock. Don't forget to put the door key back in the box using the same code. You can lock the door by pressing the lock button on the keypad and turning the deadbolt to lock position. Please check that it is locked when you leave.

PARKING:

You can park any where on the driveway or designated areas near the house. Please do not park on areas beyond the wooden garden ties. We have septic tanks and the septic field there!

VENTILATION FAN:

By the front door, there is a switch to turn on the ventilation fan. This turns on the main bathroom fan all the time to help control moisture build-up. Please keep the switch on during the day and you can switch it off at night when you go to bed. When you leave, Please don't forget to turn it off.

THERMOSTAT:

If you are feeling a bit chilly, feel free to adjust the thermostat while you are here. 64 degrees is a comfortable room temp.

But don't forget to set the thermostat at **55 ° F** when you leave if you are here in the winter or spring and leave off in the summer.

WIFI:

network name: **7 4 3 4 C A**

password:

TOWELS & SHEETS:

We have plenty of extra sheets and towels under both beds. There are beach towels in the bedroom closet. Leave beds unmade, towels on floor or hanging over shower so housekeeping knows what needs to be washed.

BEDS:

You can move the day bed in the guest room into a twin bed if you want more room. Please note that there are plywood squares that need to slide in/out to give extra support to the frame. There are twin size sheets in the daybed drawer. The living room couch also folds out into a bed and there are linens located inside of it.

TV

The TV has a built in DVD option on side. There are DVDs in the dining table drawers. You can also watch Netflix and UTUBE using the ROKU remote. Use the input button on the RCA remote to toggle over to ROKU. Please don't move the TV arm around, don't want it coming off the wall 😊

MUSIC:

Our little Amazon Alexa speaker is connected to our Spotify account. You can press the speaker button (or say 'Alexa') then say 'play (your favorite music or musician)'. It is portable, so you can bring it outside if you want. Just put it back on its base when you are done. You can also connect it to your phone through bluetooth or just use an AUX cable.

BBQ:

We have a small portable BBQ in the brown patio box. Feel free to use it. It sits on top of the brown box. Please use the reusable BBQ mats for easy cleaning. Once cooled down, please store it back in the box. We have extra cans of propane underneath the ensuite bathroom sink. If you are staying for an extended period and plan to BBQ a lot, you may want to bring an extra little tank or two. There is also a portable butane stove and propane heater there in case the power goes off. * *Power outage happens frequently on Pender during windstorms, especially in winter*

DINING TABLE & CHAIRS:

The table folds in/out. You can collapse the table on the right side and remove the two small chairs to create more space if desired.

GOLF CLUBS:

We have two sets of golf clubs you can use if you choose to go golfing at the Pender Island golf course.

OUTDOOR FUN:

There is other recreational equipment in the blue tote under the home which you are free to use including discs for disc golfing which is super fun and a great work-out!

KAYAKS:

We have two sit-on-top kayaks. They are beginner friendly and pretty stable (Max. weight 275 lbs). However, they are NOT open ocean kayaks. **Use them at your own risk.** PFDs (life vests) are in a marked tote under the house. Our favorite spot to kayak is Magic Lake about 5 min drive from the house. Please rinse off the kayaks and PFDs after use. There are wheels under the house to roll down and launch at Shingle Bay Park. If using these kayaks in Shingle Bay, stay in the protected bay.

GAMES:

There are some fun games in the cupboard next to the stove and some puzzles under the bed in the master bedroom.

GARBAGE AND RECYCLING:

There is no residential garbage and recycling pickup on Pender. If you need more waste storage during your stay, there is an empty gray tote under the house by the front steps. Feel free to put food scraps (no meat please) in the black composter behind the house. Our housekeeper removes recycling and waste as part of our cleaning service. For longer stays, there is a garbage drop-off at Medicine beach (open 10am to 10pm daily). There is also a recycling depot on the way to the ferry. **Please separate garbage and recycling. If you leave more than one large garbage bag full of recycling and/or garbage, there will an additional charge of \$10/bag.**

BABIES & CHILDREN:

This house is NOT baby-proofed, but your little ones are welcome. Please be aware that there is a steep drop-off on the ocean side hence the fence.

SMOKING:

No smoking inside please.

If you are going to smoke outside, be sure to butt-out safely.

There are no campfires or firepits allowed on Pender during the summer months.

no campfires on the property year round for safety reasons.

DEER:

They come visit us often and sometimes a family of otters. Do NOT feed them and be respectful by keeping your distance. Your chances of seeing them is higher early in the morning or in the evening.

OTHER MISC. RULES

Feel free to use the condiments in the fridge/spices in the pantry. If we run out of anything, please let us know. 😊

We provide a few K-cups for the Keurig. We also have a drip coffee machine and kettle. Feel free to bring more from home or additional K-cups or drip coffee can be purchased at the grocery store.

Antibacterial wipes and hand sanitizer has been provided for use during your stay as we are offering enhanced safety precautions during the Covid19 pandemic.

There is an outdoor security camera out back but it is not actively monitored during guest stays.

We are on the Magic Lake Estates Water system so water is potable! Drink UP 😊 Our water supply comes from Buck Lake which gets low in the summer so be responsible and do not leave water running for extended periods.

Please be respectful of thy neighbor and bring your party indoors after 11pm.

****Our Cottage sits on beautiful Shingle Bay which is an Intertidal Ecosystem rich with sensitive flora and fauna. Please do you best to respect and not disturb the shoreline. Please review the intertidal ecosystem brochure that is attached.**

*****NO SHOES INDOORS PLEASE***** (see last pages of this guide)

WHEN YOU LEAVE:

LOCK UP ALL DOORS + WINDOWS

MAKE SURE ALL TAPS INDOORS AND OUTDOORS ARE TURNED OFF

TURN OFF VENTILATION FAN AND MAKE SURE HEAT IS OFF OR LEFT AT 55

DON'T FORGET TO LEAVE THE KEY IN THE LOCK BOX IF YOU ARE USING IT

Any questions?

Call Darryl (604-306-1340) or Suman (604-837-7511) or

our on-island contact:

Laurie Rupert (778-549-0611)

We hope your stay with us is an enjoyable and memorable one.



THINGS TO DO

WALKING:

Shingle Bay Park (2 min walk – make two lefts at the top of the driveway) to play with the kids, launch your kayak, Etc. Not a good swimming hole due to the silt. You will get stuck! Literally! From here you can take the Masthead trail up to Buck Lake or take the trail further left to **Shingle Bay Campground** (takes about 30 mins and it is our favorite spot- ocean access, picnic site and the apple orchard). If you are adventurous and willing to walk longer/steeper, go up to **Roe Lake** (splits off from the trail on your way to Shingle Bay Campground). It will be about 1 ½ hour there and back. **Panda Bay** (1 min walk- make a right at the top of the driveway). Small ocean access point to view sunsets or launch kayaks.

DRIVING:

Thieves Marina- great spot for picnic / whale-watching / sunset

Port Browning- kayak/ SUP rental, great pub food, (elevated food/atmosphere available in the Bistro) and weekend fun with live music and karaoke

Driftwood Centre- grocery store, liquor store, general store, bakery, scooter rental, and gas station

El Faro Mexican fusion at the golf course

Gather Eatery at Hope Bay- yummy and healthy fare (Gluten Free/Vegan Options

Woods- great place for coffee, great food-the brioche cinnamon buns are fantastic

Jo's place at Driftwood Centre- best place on Pender for breakfast/ brunch/ lunch

Seastar Winery + Twin Island Cidery For tastings and sales

Niagara Beach- our favorite beach (pg 29 of the trail guide)

Poet's Cove- fine and bistro dining/ day pass for the pool/hot tub/ Kayak rental

Gowland Park/Brooks Point- light house/ beautiful view point and Picnic spot (pg 91 of the trail guide)

Saturday Farmer's market (10am-2pm)

Golfing Fun little 9 hole course

New To U thrift shop

Pender Island Library

Disc Golfing fun 27 holes with built in hiking-great workout!

Pender Island Museum great stroll back in time-takes about 30 mins to view

Pender Chocolates can't go wrong with Chocolate-Darryl's fav iced mocha on Pender!

Yoga Platform @ Hope Bay

Mortimer's Spit- great picnic area

Mt. Norman- for spectacular view of the islands. Challenging 1 hour hike.

Take a look at the trail guide (in the magazine basket) for other hiking trails.

FOR A COMPLETE MONTHLY LIST OF EVENTS HAPPENING ON ISLAND, CHECK OUT:

www.penderpost.org/calendar

INTERTIDAL ECOSYSTEMS

NORTH PENDER ISLAND DEVELOPMENT PERMIT AREA

What Are They?

Intertidal ecosystems are areas that provide a vital link between marine and terrestrial environment.

They include tidal flats, bays, coves, estuaries, mudflats and beaches, and may have significant areas exposed at low tide. These areas are valued for the important habitats they provide for marine and estuarine dependent organisms such as fish, clams, waterbirds, herons, eagles and osprey.

Intertidal ecosystems encompass habitats such as salt marshes, eelgrass or kelp beds which are home to sensitive or juvenile stages of marine invertebrates and fish.

These ecosystems have been recognized as an important regional resource, supporting economically important activities such as fisheries (salmon, clam, kelp), tourism and recreation.



Derek Holzapfel

Why They Are Important

Intertidal ecosystems are one of the most biologically diverse marine communities. Shoreline areas provide terrestrial, marine and aquatic species with food, den and burrowing sites, flyways and travel corridors, perching and sunning sites, protection from weather and predators, and nursery sites for young. The shallow nature of intertidal areas make them particularly susceptible to developments such as docks, piers, boat launch ramps, stairs and walkways.



Derek Masselink

Intertidal ecosystems cover only 56 hectares of North Pender Island's shoreline area.

Their Purpose

The purpose of the Intertidal Ecosystems Development Permit Area (DPA) is to offer protection to the sensitive marine ecosystems located along North Pender Island by guiding any new development that might occur within them. The areas covered by this DPA are indicated in Schedule N of the North Pender Island Official Community Plan (OCP).

What Does This Mean?

If you have a property that is partially located within a Intertidal Ecosystems DPA you will need to obtain a development permit from the Islands Trust before undertaking certain new land-altering activities identified in the North Pender Island OCP.

The regular maintenance of existing buildings and landscaping, as well as any development that takes place outside of the DPA does not require a Development Permit.



Islands Trust

Extent of Intertidal Ecosystems DPA Areas on North Pender Island



Associated Species

Animals

Harbour seal, river otter, mink, osprey, eagle, waterbirds, fish, shellfish, seastars, crabs

Plants

Eelgrass, kelp, green algae

How to Protect this Ecosystem

Establish a Surrounding Buffer or Barrier

A protective vegetated buffer or fence upland from an intertidal area will help protect it from potentially harmful outside disturbance and access. Fences can also be used to control access to these areas.

Control Invasive Species

The open nature of shoreline areas and their shallow or exposed soils make them vulnerable to the establishment of non-native species.

Limit Access

Excessive access by human and domestic animals over time can have a negative impact on these sensitive intertidal ecosystems and the species that they contain.

Limit Harvesting of Intertidal Organisms

Make efforts to limit the amount of shellfish, seaweed and fish harvested from these areas.

Maintain the Existing Hydrologic Regime

Freshwater drainage sources, which are an important and influencing factor on intertidal ecosystems, can be easily and detrimentally altered by upland activities. Changes to upland freshwater sources that drain into intertidal areas can effect the health of these marine ecosystems. Make efforts to maintain the nature of these sources.

*Ecosystem DPAs guide
development in identified
ecologically sensitive areas*

For More Information

To determine if your land has a Intertidal Ecosystems DPA on it consult the North Pender Island Official Community Plan (OCP). Copies of the OCP are available from Islands Trust offices in Victoria and Pender Island, and on-line at:

www.islandstrust.bc.ca/ltc/np

If you have any questions about DPAs please contact Islands Trust staff by phone by dialing 1.800.663.7867 and requesting 250.405.5151 or by email at npi@islandstrust.bc.ca.



**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
TEMPORARY USE PERMIT**

**NP-TUP-2021.9 (Persello)
*Renewal of NP-TUP-2018.6 (Persello)***

2612 Harpoon Road

To: Darryl Persello & Suman Lee

1. This Permit applies to the land described below:

Lot 17, Section 9, Pender Island, Cowichan District, Plan 23487
(PID: 003-104-346).

2. This Permit is issued for the purpose of permitting the owner to conduct the following use on their property:

a) A Short Term Vacation Rental within the Dwelling Unit.

3. and is subject to the following conditions:

- a) Either the property owner or other on-island contact must be available on North Pender Island by telephone 24 hours/day, seven days per week. The name and contact number of property owner and/or the on island contact person must be provided to guests upon arrival;
- b) the property owner or Short Term Vacation Rental operator must provide neighbours within a 200 metre radius of the vacation rental with the contact person's phone number, and a copy of the temporary use permit;
- c) the property owner or Short Term Vacation Rental operator must provide guests with information on noise bylaws, water conservation, fire safety, storage and disposal of garbage and recycling, septic care, and control of pets (if permitted). The guest information must also remind guests that the property is located in a residential area;
- d) the property owner or Short Term Vacation Rental operator must provide guests with information on the Intertidal Sensitive Ecosystem designated on the adjacent water surface;
- e) the maximum number of guests is limited to six (6);
- f) camping and occupancy of recreational vehicles are prohibited;
- g) signage advertising the Short Term Vacation Rental may not exceed 0.6 square metres;
- h) the rental or provision of motorized personal watercraft is prohibited;
- i) all outdoor fires are prohibited;
- j) all parking for the Short Term Vacation Rental must be contained on the subject property;
- k) the holder of this Permit, will be held accountable for any violation of the conditions of this Permit. The Islands Trust Bylaw Investigations Officer may enter the property between the hours of 9:00 am and 5:00 pm on any day without prior consultation with the holder of the Permit, or commercial vacation renter for the purpose of investigating a complaint;
- l) the property owner or Short Term Vacation Rental operator must provide guests with emergency service contact information and to provide a means for contacting them;

- m) the property owner or Short Term Vacation Rental operator must post the name and contact number of the property owner or on-island contact person, and permit information at the entrance to the house.
4. This permit is valid for three (3) years from date of issuance of the permit and upon expiry of the permit the owner of the site shall discontinue the temporary use to the satisfaction of the Islands Trust, or apply for a renewal of this permit.
5. This permit is not a building permit and does not remove any obligation on the part of the permittee to comply with all other requirements of "North Pender Island Land Use Bylaw No. 103, 1996" and to obtain other approvals necessary for completion of the proposed development, including approvals from the Capital Regional District, Island Health and Ministry of Transportation and Infrastructure.

AUTHORIZING RESOLUTION PASSED BY THE NORTH PENDER ISLAND LOCAL TRUST COMMITTEE THIS ##th DAY OF MONTH, 2022.

Deputy Secretary, Islands Trust

Date Issued

From: Daniela Murphy
Sent: Tuesday, January 4, 2022 9:43 AM
To: 'Karla Campbell'; 'jarnet@crd.bc.ca'; 'chris.laughlin@viha.ca'; Warren Dingman; Becky McErlean; Jas Chonk; 'Mike Tippett'; 'info@nsswaterworks.ca'; 'dlundy@saltspringfire.com'; 'amanda.vanderkloof@bcas.ca'; 'McIntyre, Cathie BCA:EX'; 'Leech, Haley TRAN:EX'; 'FrontCounter BC FLNR:EX'; 'saltspring@rcmp-grc.gc.ca'; 'developmentreferrals@BCTransit.com'; 'ron.burleson@gov.bc.ca'; 'Rudi.Mayser@gov.bc.ca'
Cc: Geordie Gordon
Subject: Salt Spring Island Proposed Bylaw No. 521 - 2188 North End Road, SSI
Attachments: SS-BL-521_1st Reading.pdf; SS-BL-521_Agency Referral_Form.pdf

Dear Referral Coordinator,

Happy New Year to you.

The Salt Spring Island Local Trust Committee (SS LTC) has asked that its proposed bylaw, Bylaw No. 521 cited as "Salt Spring Island Land Use Bylaw No. 355, 1999, Amendment No. 4, 2019" be referred to you for comment. Please find the proposed bylaw attached to this email.

The proposed bylaw would rezone the subject property from Rural (R) to Rural variant q (R(q)) to permit an affordable dwelling unit with a floor area not exceeding 70m². The dwelling unit is already built and has been used in contravention of the Land Use Bylaw since 1992. This rezoning would bring the property into compliance.

The staff report and information relating to the application can be found on our website, <https://islandstrust.bc.ca/island-planning/salt-spring/current-applications/> under **SS-RZ-2017.3**

A reply is respectfully requested by **Friday, February 4, 2022**. We understand that there are numerous demands on your time, however, we genuinely welcome any comments or questions you may have.

Should you have any questions, or require further information, please contact Planner Geordie Gordon at ggordon@islandstrust.bc.ca or 250-537-9144.

Please direct referral responses to ssiinfo@islandstrust.bc.ca

Or by mail to: Islands Trust, 1 – 500 Lower Ganges Road, Salt Spring Island, BC V8K 2N8

Thank you for your time and attention to this matter.

Yours truly,

Daniela Murphy

Daniela Murphy

Legislative Clerk/Deputy Secretary

Islands Trust, Salt Spring Island

#1 – 500 Lower Ganges Road
Salt Spring Island, BC V8K 2N8

Phone: 250-538-5606

Enquiry BC Toll-free call 1-800-663-7867

Websites: www.islandtrust.bc.ca | www.islandtrustconservancy.ca

Preserving Island communities, culture and environment since 1974.



Islands Trust

BYLAW REFERRAL FORM

1-500 Lower Ganges Road
Salt Spring Island, BC V8K 2N8
Ph: (250) 537-9144
ssiinfo@islandstrust.bc.ca
www.islandstrust.bc.ca

Island: Salt Spring Island Trust Area Bylaw No.: 521 Date: January 4, 2022

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 30 days. If no response is received within that time, it will be assumed that your agency's interests are unaffected. .

APPLICANTS NAME / ADDRESS:

Jamie Colligan / 2188 North End Road Salt Spring Island, BC V8K 1E1

PURPOSE OF BYLAW:

Rezoning property from Rural (R) to Rural variant q (R(q)) to permit an affordable dwelling unit with a floor area not exceeding 70m2.

GENERAL LOCATION:

2188 North End Rd

LEGAL DESCRIPTION:

PID: 000-276-901 - LOT 3, SECTION 7, RANGE 1 NORTH, NORTH SALT SPRING ISLAND, COWICHAN DISTRICT PLAN 34166

SIZE OF PROPERTY AFFECTED:

2.48 Acres

ALR STATUS:

None

OFFICIAL COMMUNITY PLAN DESIGNATION:

Rural Neighbourhoods

OTHER INFORMATION:

All staff reports for SS-RZ-2017.3 can be found here: <https://islandstrust.bc.ca/island-planning/salt-spring/current-applications/>

Please fill out the Response Summary on the back of this form. If your agency's interests are "Unaffected", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.

(Signature)

Name: Georgie Gordon

Title: Planner 2

This referral has been sent to the following agencies:

Provincial Agencies

BC Assessment Authority
Ministry of Municipal Affairs
Ministry of Transportation & Infrastructure
Ministry of Forest Lands, Natural Resource Operations and Rural Development (Water Authorizations)
BC Transit
Front Counter BC

Regional Agencies

CRD – All Referrals & K. Campbell (SSI Senior Manager)
CRD – SSI Building Inspection
CRD – Housing Secretariat
Vancouver Island Health Authority
Islands Trust Bylaw Enforcement and Compliance

Non-Agency Referrals

BC Ambulance Service
North Salt Spring Waterworks District
RCMP
SSI Fire-Rescue

Adjacent Local Trust Committees and Municipalities

Galiano Island Local Trust Committee
Mayne Island Local Trust Committee
North Pender Island Local Trust Committee
Thetis Island Local Trust Committee
Cowichan Valley Regional District

BYLAW REFERRAL FORM
RESPONSE SUMMARY

- ☐ Approval Recommended for Reasons Outlined Below
- ☐ Approval Recommended Subject to Conditions Outlined Below
- ☐ Interests Unaffected by Bylaw
- ☐ Approval Not Recommended Due to Reason Outlined Below

Salt Spring Island Trust Area
(Island)

(Signature)

(Date)

521
(Bylaw Number)

(Title)

(Agency)

PROPOSED

SALT SPRING ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 521

A BYLAW TO AMEND SALT SPRING ISLAND LAND USE BYLAW, 1999

The Salt Spring Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the Salt Spring Island Local Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “Salt Spring Island Land Use Bylaw, 1999, Amendment No. 4, 2019”.

2. Salt Spring Island Local Trust Committee Bylaw No. 355, cited as “Salt Spring Island Land Use Bylaw, 1999,” is amended as follows:

- 2.1 By inserting in Subsection 9.10.4 - Exceptions in Particular Locations - the following new Rural Zone Variation (q) - R(q) after Zone Variation R(p):

“Zone Variation – R(q)

- (24) In addition to the regulations of Section 9.10.1, on lands zoned R(q), the following use is allowed:

1 *affordable dwelling unit* with a *floor area* not exceeding 70 m² is permitted as an *accessory* use:

- (25) Despite the provisions of Section 3.13, on lands zoned R(q), *bed and breakfast* operations are not permitted within an *affordable dwelling unit*.”

And by making consequential numbering alterations to effect this change.

- 2.2 By changing the zoning classification of Lot 3, Section 7, Range 1, North Salt Spring Island, Cowichan District, Plan 34166 from Rural (R) to Rural (q), as shown on Plan No. 1 attached to and forming part of this bylaw, and by making such alterations to Schedule “A” of Bylaw No. 355 as are required to effect this change.

PROPOSED

SS-BL-521

READ A FIRST TIME THIS 14TH DAY OF DECEMBER, 2021

READ A SECOND TIME THIS _____ DAY OF _____ 20____

PUBLIC HEARING HELD THIS _____ DAY OF _____ 20____

READ A THIRD TIME THIS _____ DAY OF _____ 20____

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS _____ DAY OF _____ 20____

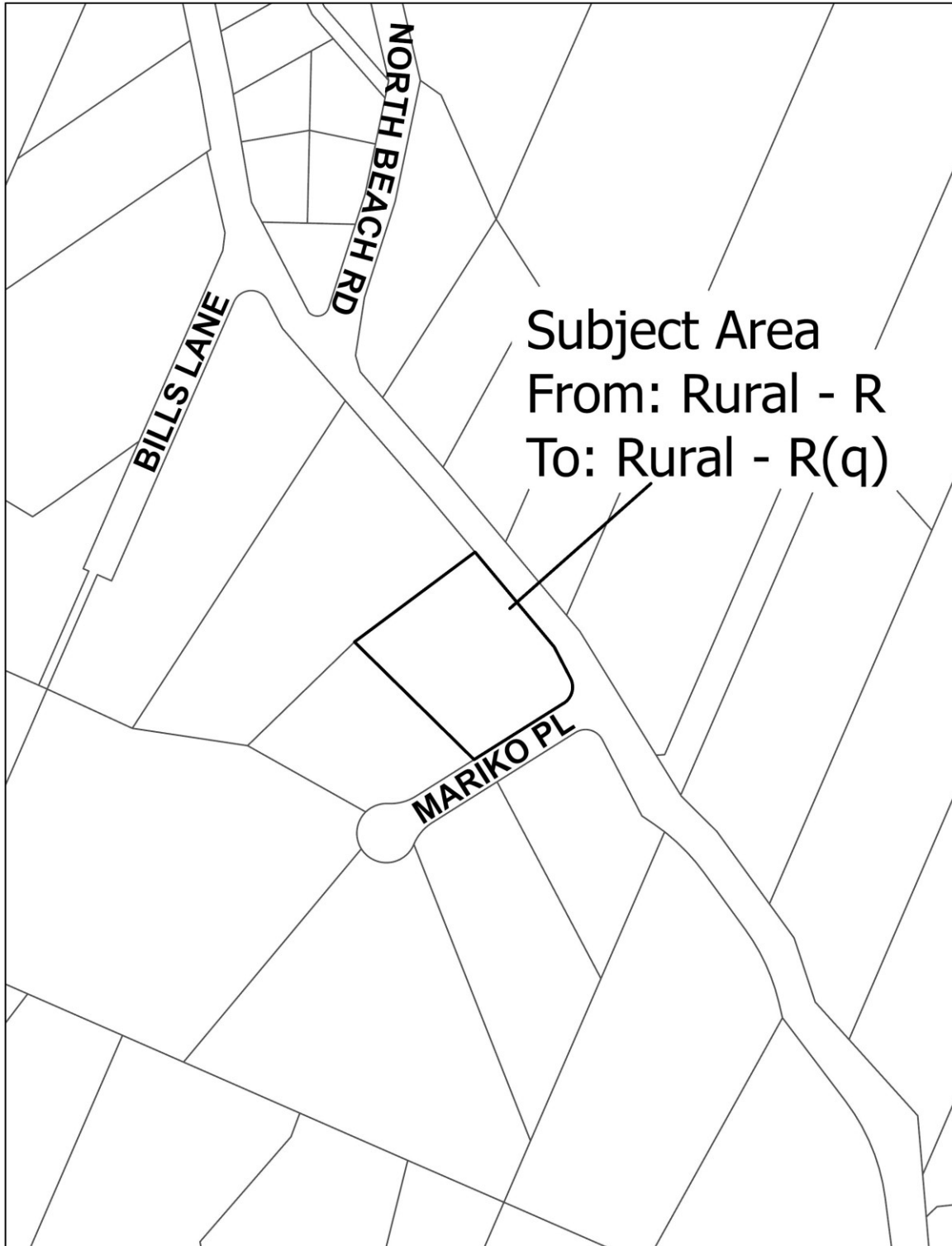
ADOPTED THIS _____ DAY OF _____ 20____

Chair Secretary

PROPOSED

SS-BL-521

PLAN NO. 1



From: Daniela Murphy
Sent: Wednesday, December 1, 2021 10:37 AM
To: Becky McErlean; Jas Chonk; Mike Tippett; jarnet@crd.bc.ca; Karla Campbell; chris.laughlin@viha.ca; Warren Dingman; info@nsswaterworks.ca; plan2farm@gmail.com; reed.bailey@gov.bc.ca; Martin.Collins@gov.bc.ca; 'FrontCounter BC FLNR:EX'
Cc: Rob Pingle; Kristine Mayes; doug.pepper@gov.bc.ca; willow.minaker@gov.bc.ca; 'McIntyre, Cathie BCA:EX'; Shannon.lambie@gov.bc.ca
Subject: Referral of Salt Spring Island Local Trust Committee Proposed Bylaw No. 526 - Farm Housing
Attachments: SS-BL-526_Referral Form.pdf; SS-BL-526_DRAFT Amended.pdf

Dear Referral Coordinator,

Please find attached to this email, referral information concerning Draft Land Use Bylaw Amendment No. 526 for the Salt Spring Island Local Trust Committee's (SS LTC) "Farm Housing" project. The Farm Housing project was established in response to amendments to the Agricultural Land Reserve (ALR) Use Regulation for residential flexibility and calls from the Salt Spring agricultural community for farmworker housing.

Draft Bylaw No. 526 proposes to amend [Salt Spring Island Land Use Bylaw No. 355](#):

- to expand residential flexibility on agricultural zoned properties;
- to update campground regulations; and,
- to permit the use of subdivision potential for farmworker housing outside agricultural zoned properties for land classified as a farm under the Assessment Act. Section 3.17 of the Land Use Bylaw would be amended to reflect this change.

In general terms, the Bylaw is characterized as follows:

- Amends the "one additional dwelling unit" under Accessory Uses to include six types of dwelling units. Note: only one additional dwelling unit is still permitted.
- Limits commercial guest accommodation in a campground on Agriculture 1 zoned lands to land classified as a farm under the Assessment Act.
- Removes seasonal cottages as a permitted accessory use.
- Amends the maximum number of campsites per hectare in a campground and maximum number bedrooms/campsites on a lot 10 in accordance with Section 33 and Section 34 of the ALR Use Regulation.
- Amends Section 3.17 to permit additional farmworkers' dwellings corresponding to subdivision potential for lots not in an agricultural zone but classified as a farm under the Assessment Act if the owner grants a covenant to the Salt Spring Island Local Trust Committee restricting the use of the farmworkers' dwelling unit and prohibiting further subdivision of the lot.

Three staff reports and Draft Bylaw No. 526 regarding the project can be found at:

<https://islandstrust.bc.ca/island-planning/salt-spring/projects/> >> Housing Action Program >> (Folder 7) Farm Housing

We understand that there are numerous demands on your time, however, we genuinely welcome any comments you may have, whether they are site-specific or more strategic and high level.

A reply is respectfully requested by **Monday, January 17, 2022**.

Should you have any questions, please do not hesitate to contact Planner Kristine Mayes or Planner Georgie Gordon at ssiinfo@islandstrust.bc.ca or 250-537-9144.

Referral responses should be addressed to ssiinfo@islandstrust.bc.ca or by mail to:

Islands Trust
1 – 500 Lower Ganges Road
SSI, BC V8K 2N8.

Thank you for your time and attention to this referral.

Yours truly,

Daniela Murphy

Daniela Murphy

Legislative Clerk/Deputy Secretary

Islands Trust

1-500 Lower Ganges Road | Salt Spring Island BC V8K 2N8

T 250-538-5606 | islandstrust.bc.ca

You can also reach us toll-free via Service BC 1-800-663-7867 | 604-660-2421

Preserving and protecting over 450 islands and surrounding waters in the Salish Sea

I am humbly thankful to live and work in the treaty lands and territories of the BOKÉĆEN, K'ómoks, Lək' wəŋən, Lyackson, MÁLEXEL, Qualicum, Quw'utsun Tribes, scəwəθən məsteyəxʷ, Scia'new, səlilwətaʔ, SEMYOME, shíshálh, Skwxwú7mesh, Snaw-naw-as, Snuneymuxw, Spune'luxutth, SÁÁUTW, Stz'uminus, ʔaʔəmen, toq qaymɪxʷ, Ts'uubaa-asatx, Wei Wai Kum, We Wai Kai, WJOŁŁP, WSIKEM, Xeláltxw, Xwémalhkwxu/ʔop qaymɪxʷ, and xʷməθkʷəy̓əm.



Islands Trust

BYLAW REFERRAL FORM

1-500 Lower Ganges Road
Salt Spring Island, BC V8K 2N8
Ph: (250) 537-9144
ssiinfo@islandstrust.bc.ca
www.islandstrust.bc.ca

Island: Salt Spring Island Trust Area Bylaw No.: 526 Date: November 26, 2021

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 45 days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

APPLICANTS NAME / ADDRESS:

Salt Spring Island Local Trust Committee

PURPOSE OF BYLAW:

Draft Bylaw No. 526 proposed to rezone Agricultural zoned properties to expand residential flexibility in accordance with [Order in Council No. 438](#) amending the Agricultural Land Reserve Use Regulation, B.C. Reg. 30/2019 on December 31, 2021. This includes the amendment and addition of dwelling configurations up to 90m² for lots under 40-ha or dwelling unit up to 186m² for lots exceeding 40-ha. Also included are updates specific to campground regulations. Additionally, the draft Bylaw No. 526 proposed to amend Section 3.17 of [Salt Spring Island Land Use Bylaw No. 355](#) to permit the use of subdivision potential for farmworker housing outside agricultural zoned properties for land classified as a farm under the Assessment Act.

GENERAL LOCATION:

Various

LEGAL DESCRIPTION:

Various

SIZE OF PROPERTY AFFECTED:

Agricultural zoned lots & land classified as a farm under the Assessment Act

ALR STATUS:

Yes & No

OFFICIAL COMMUNITY PLAN DESIGNATION:

Agriculture & Various

OTHER INFORMATION:

<https://islandstrust.bc.ca/island-planning/salt-spring/projects/> >> Housing Action Program >> (Folder 7) Farm Housing

Please fill out the Response Summary on the back of this form. If your agency's interests are "Unaffected", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.


(Signature)

Name: Kristine Mayes

Title: Planner 1

This referral has been sent to the following agencies:

Provincial Agencies

Agricultural Land Commission
Ministry of Agriculture
BC Assessment Authority
Front Counter BC

Regional Agencies

CRD – All Referrals & K. Campbell (SSI Senior Manager)
CRD – SSI Building Inspection
CRD – Housing Secretariat
Vancouver Island Health Authority
Islands Trust Bylaw Enforcement and Compliance
SSI Agricultural Advisory Planning Commission

Non-Agency Referrals

North Salt Spring Waterworks District
SSI Agricultural Alliance

Adjacent Local Trust Committees and Municipalities

Galiano Island Local Trust Committee
Mayne Island Local Trust Committee
North Pender Island Local Trust Committee
Thetis Island Local Trust Committee
Cowichan Valley Regional District

BYLAW REFERRAL FORM
RESPONSE SUMMARY

- ☐ Approval Recommended for Reasons Outlined Below
- ☐ Approval Recommended Subject to Conditions Outlined Below
- ☐ Interests Unaffected by Bylaw
- ☐ Approval Not Recommended Due to Reason Outlined Below

Salt Spring Island Trust Area

(Island)

(Signature)

(Date)

526

(Bylaw Number)

(Title)

(Agency)

DRAFT

SALT SPRING ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 526

A BYLAW TO AMEND SALT SPRING ISLAND LAND USE BYLAW NO. 355, 1999

The Salt Spring Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the Salt Spring Island Local Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “Salt Spring Island Land Use Bylaw, 1999, Amendment No. 3, 2021”.

2. Salt Spring Island Local Trust Committee Bylaw No. 355, cited as “Salt Spring Island Land Use Bylaw, 1999,” is amended as follows:

2.1 By replacing the table under Subsection 9.1.1 – Permitted Uses of Land, Buildings and Structures – with the following:

	A1	A2
Principal Uses, Buildings and Structures		
<i>Agriculture, farm buildings and structures</i> <i>Information Note: By definition, “agriculture” includes the processing, storage, sale of farm products produced on the same lot, or on another lot that is part of the same farm business.</i>	♦	♦
<i>Single-family dwellings</i>	♦	♦
Accessory Uses		
One additional <i>dwelling unit</i> , provided that the existing <i>single-family dwelling</i> is 500 square metres in <i>floor area</i> or less and is consistent with Agricultural Land Reserve Use Regulation, B.C. Reg. 30/2019 or any legislation which may be enacted in substitution, that is: a) a pre-existing <i>dwelling unit</i> constructed before February 22, 2019, or b) a <i>mobile home</i> for immediate family constructed between July 4, 2019 and December 31, 2021, or c) a <i>farmworkers’ dwelling unit</i> not exceeding 90 square metres in <i>floor area</i> on agricultural land classified as a farm under the <u>Assessment Act</u> , or d) a <i>full-time rental cottage</i> subject to Section 3.15, or e) a <i>secondary suite</i> subject to Section 3.16, or f) on a lot greater than 40 hectares in area, a <i>dwelling unit</i> not exceeding 186 square metres in <i>floor area</i> . <i>Information Note: For lots 40 hectares or less in area where the single-family dwelling exceeds 500 square metres in floor area, permission to construct an additional dwelling unit for farm use must be applied for and approved in writing by the Agricultural Land Commission.</i>	♦	♦

Processing of the <i>farm products</i> of another farm located within the Salt Spring Island Local Trust Area. <i>Information Note: This use requires the written permission of the Agricultural Land Commission.</i>	♦	♦
Sale of the <i>farm products</i> of another farm, provided that the <i>floor area</i> used for the storage and display of the products from another farm may not exceed 5 square metres or one third of the total <i>floor area</i> on a <i>lot</i> that is occupied by <i>farm product</i> storage and display.	♦	♦
<i>Home-based business use</i> subject to Section 3.13	♦	♦
<i>Commercial guest accommodation</i> in a <i>campground</i> on agricultural land classified as a farm under the <u>Assessment Act</u> , subject to Schedule "F".	♦	

- 2.2 By replacing the table under Subsection 9.1.2 – Siting and Density of Permitted Uses, Buildings and Structures – with the following:

	A1	A2
Lot Coverage		
Maximum combined <i>lot coverage</i> of all <i>buildings</i> and <i>structures</i> , excluding greenhouses (per cent)	35	35
Maximum combined <i>lot coverage</i> of all <i>buildings</i> and <i>structures</i> , including greenhouses (per cent)	75	75
Maximum <i>lot coverage</i> of all <i>campsites</i> , <i>buildings</i> and <i>structures</i> in a <i>campground</i> (per cent)	5	N/A
Number of Units and Site Areas		
Maximum number of <i>campsites</i> per ha in a <i>campground</i> on any <i>lot</i>	10	N/A
Maximum number of bedrooms used in a <i>bed and breakfast home-based business</i> and <i>campsites</i> on any <i>lot</i>	10	N/A
Setbacks		
Despite Article 4.3.1(2), the following <i>lot line</i> setbacks apply in the zone indicated:		
Minimum <i>rear lot line</i> setback (metres) for <i>buildings</i> , <i>structures</i> and <i>uses</i> that are not listed in Subsections 4.3.4 through 4.3.9	4.5m	4.5m

- 2.3 “By replacing Section 3.17 – Dwellings on Large Farms – with the following:

3.17 Despite other provisions of this bylaw, where *agriculture* is a permitted *principal use* on a *lot* not in an *Agricultural zone*, and complies with Section 3.5 and the Subdivision and Servicing Requirements of Part 9 of this Bylaw, additional *farmworkers’ dwelling units* not exceeding 186 square meters corresponding to the *subdivision* potential of a *lot* may be constructed and occupied where a lot is classified as a farm under the Assessment Act if the owner grants to the Salt Spring Island Local Trust Committee a covenant under the Land Title Act restricting *use* of the *farmworkers’ dwelling units* and prohibiting further *subdivision* of the *lot*.

Information Note: Applications should be consistent with the guidelines in H.2.1.3 of the Salt Spring Island Official Community Plan.”

And by making consequential numbering alterations to effect this change.

READ A FIRST TIME THIS _____ DAY OF _____ 20_____

READ A SECOND TIME THIS _____ DAY OF _____ 20_____

PUBLIC HEARING HELD THIS _____ DAY OF _____ 20_____

READ A THIRD TIME THIS _____ DAY OF _____ 20_____

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
_____ DAY OF _____ 20_____

ADOPTED THIS _____ DAY OF _____ 20_____

Chair

Secretary



Islands Trust

BYLAW REFERRAL FORM

Suite 200, 1627 Fort Street
Victoria, B.C. V8R 1H8
Ph: (250) 405-5151
Fax: (250) 405-5155
information@islandstrust.bc.ca
www.islandstrust.bc.ca

Island: South Pender Island Local Trust Area Bylaw No.: 122 Date: Dec 15, 2021

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 30 days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

APPLICANTS NAME / ADDRESS:

N/A

PURPOSE OF BYLAW:

The South Pender Island Local Trust Committee (LTC) is proposing to amend the South Pender Land Use Bylaw (LUB) to include new agricultural regulations to align with the Agricultural Land Commission, to reduce maximum floor areas for new dwellings in the rural residential zones, and to increase the setback from the natural boundary of the sea for new development.

Additional project background and staff reports are available on the Land Use Bylaw Amendments project webpage:
<https://islandstrust.bc.ca/island-planning/south-pender/projects/>

GENERAL LOCATION:

South Pender Island Local Trust Area

LEGAL DESCRIPTION:

N/A

SIZE OF PROPERTY AFFECTED:

N/A

ALR STATUS:

N/A

OFFICIAL COMMUNITY PLAN DESIGNATION:

N/A

OTHER INFORMATION:

Additional information, including the current bylaws, is available at: www.islandstrust.bc.ca

Please fill out the Response Summary on the back of this form. If your agency's interests are "*Unaffected*", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.

(Signature)

Name: Kim Stockdill

Title: Island Planner
Contact Info: Tel: 250-405-5157
Email: kstockdill@islandstrust.bc.ca

PLEASE TURN OVER

This referral has been sent to the following agencies:

Federal Agencies

N/A

Provincial Agencies

Agricultural Land Commission

Non-Agency Referrals

N/A

Regional Agencies

Capital Regional District – Building Inspection

Adjacent Local Trust Committees and Municipalities

North Pender Island Local Trust Committee

Saturna Island Local Trust Committee

First Nations

Cowichan Tribes

Halalt First Nation

Lake Cowichan First Nation

Lyackson First Nation

Malahat First Nation

Pauquachin First Nation

Penelakut Tribe

Semiahmoo First Nation

Stz'uminus First Nation

Tsartlip First Nation

Tsawout First Nation

Tsawwassen First Nation

Tseycum First Nation

WSANEC Leadership Council

BYLAW REFERRAL FORM RESPONSE SUMMARY

☐

Approval Recommended for Reasons Outlined Below

☐

Approval Recommended Subject to Conditions Outlined Below

☐

Interests Unaffected by Bylaw

☐

Approval Not Recommended Due to Reason Outlined Below

South Pender Island Local Trust Area

(Island)

122

(Bylaw Number)

(Signature)

(Name and Title)

(Date)

(Agency)

DRAFT

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 122

A BYLAW TO AMEND SOUTH PENDER ISLAND LAND USE BYLAW No. 114, 2016

The South Pender Island Local Trust Committee, being the Trust Committee having jurisdiction in respect of the South Pender Island Trust Area under the *Islands Trust Act*, enacts as follows:

1. Citation

This bylaw may be cited for all purposes as “South Pender Island Land Use Bylaw No. 114, 2016, Amendment No. 2, 2021”.

2. South Pender Island Local Trust Committee Bylaw No. 114, cited as “South Pender Island Land Use Bylaw No. 114, 2016” is amended as follows:

2.1 By adding the following new definitions to Section 1.1 ‘Definitions’:

““agri-tourism” means an activity referred to in Section 12 of the *Agricultural Land Reserve Use Regulation*.”

““agri-tourist accommodation” means a use accessory to a *farm use* for the purpose of accommodating commercial guests within specific structures on specific portions of a *lot*.”

““farm retail sales” means the retail sale of tangible farm products grown or raised on a farm or association to which the owner of the farm belongs.”

““Farm Status” means land classified as a farm pursuant to the *(BC) Assessment Act*.”

2.2 By removing the words “floor area of 70m² or less” and replacing it with “limited floor area” in the definition of ‘cottage’.

2.3 By removing the word “outer” and replacing it with “inner” in the definition of ‘floor area’.

2.4 By removing the words “7.6 metres (25 feet)” and replace it with “15 metres (50 feet)” in Subsection 3.3(3).

2.5 By adding the following new subsection after Subsection 3.3(3) and renumbering accordingly:

“Despite Subsection 3.3(3), *buildings or structures* legally constructed prior to [*insert date of Bylaw No. 123 adoption*] shall not be sited within 7.6 metres (25 feet) of the *natural boundary* of the sea and, for this purpose only, paved areas of asphalt, concrete or similar material are “*structures*”.”

- 2.6 By adding the words “except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²)” at the end of Subsection 3.6(4) so it reads:

‘The combined *floor area* used in all *home businesses* on a *lot*, except a *bed and breakfast*, must not exceed 65 m² (700 ft²) except for a *lot* located within the Agricultural Land Reserve, the combined *floor area* must not exceed 100 m² (1076 ft²).’

- 2.7 By deleting the words “Maximum *Floor Area* per *lot*” from Subsection 5.1(5) and replacing it with

“For a *lot* where a legal *dwelling* was constructed prior to [insert date of Bylaw No. 123 adoption] the following maximum *Floor Area* per *lot* apply:”

- 2.8 By adding a new subsection after Subsection 5.1 (5) and renumbering accordingly:

(6) For a *lot* where a *dwelling* is constructed after [insert date of Bylaw No. 123 adoption] the following maximum *Floor Area* per *lot* apply:”

✓ ✓ ✓

Lot Area	The total floor area of all buildings may not exceed:	The floor area of a dwelling may not exceed:
Less than 0.4 ha (1 acre)	465 m ² (5000ft ²)	255 m ² (2750ft ²)
0.4 ha to 0.79 ha (1 to 2 acres)	557 m ² (6000ft ²)	348 m ² (3750ft ²)
0.8 ha to 1.59 ha (2 to 4 acres)	743 m ² (8000ft ²)	372 m ² (4000ft ²)
1.6 ha to 3.99 ha (4 to 10 acres)	836 m ² (9000 ft ²)	418 m ² (4500ft ²)
4.0 ha (10 acres) or greater	1858 m ² (20000ft ²)	465 m ² (5000ft ²)

- 2.9 By adding the following new subsection after Subsection 5.1(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

✓ ✓ ✓

- 2.10 By adding the following new subsection directly after the newly renumbered Subsection 5.1(8) and renumbering accordingly:

“Despite Subsection 5.1(8), the setback for a *dwelling* or *cottage* shall be 6.0 metres (20 ft.) from any interior or exterior *lot line*.”

✓ ✓ ✓

2.11 By removing “560 m² (6028 ft²) and replacing it with “500 m² (5382 ft²) in Subsection 5.5(9).

2.12 By removing the word “Rescinded” from Article 5.5(1)(d) and replacing it with “Accessory *agri-tourism* subject to Subsections 5.5(11) to 5.5(14);”

2.13 By adding the words “and *farm retail sales*.” after the words ‘on the same lot’ in Article 5.5(1)(e).

2.14 By adding the following new article after Article 5.5(1)(d) and renumber accordingly:

“Accessory agri-tourist accommodation, subject to Subsections 5.5(13) to 5.5(19), and as permitted by the Agricultural Land Commission;”

2.15 By adding the following new subsection after Subsection 5.5(9) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 90 m² (969 ft²).”

2.16 By removing the word “Rescinded” adding the following to Subsection 5.5(10):

“*Farm retail sales* are permitted on a lot located within the Agricultural Land Reserve, and the total indoor and outdoor *floor area* for the *farm retail sales* shall not exceed 300 m² (3229 ft²).

2.17 By adding the following new subsections after Subsection 5.5(10) under ‘Conditions of Use’ and renumber accordingly:

“5.5(11) *Agri-tourism buildings or structures* are not permitted.

5.5(12) *Agri-tourism* must be in compliance with the *Agricultural Land Reserve Use Regulation*.

5.5(13) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* with *Farm Status*.

5.5(14) *Agri-tourism* and *agri-tourist accommodation* are only permitted on a *lot* located in the Agricultural Land Reserve.

5.5(15) *Agri-tourist accommodation* must be *accessory* to an active *agri-tourism* activity.

5.5(16) *Agri-tourist accommodation* must be *accessory* to a *farm use*.

5.5(16) *Agri-tourist accommodation buildings and structures* must not exceed a *lot coverage* of 5 percent.

5.5(17) *Agri-tourist accommodation* must not be in use for more than 180 days in a calendar year.

5.5(18) *Agri-tourist accommodation* may include associated uses such as meeting rooms and dining facilities for paying registered guests, but may not include a *restaurant* or any commercial or retail goods and services other than those permitted by the Agriculture (A) Zone.

5.5(19) The maximum number of guests that may be accommodated in any *agri-tourist accommodation* at any one time, either alone or in combination with a *bed and breakfast*, is not to exceed 10 guests or 10 bedrooms.

2.18 By adding the following new subsection after Subsection 5.6(7) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

2.19 By adding the following new subsection after Subsection 5.7(6) and renumbering accordingly:

“The maximum *floor area* of a *cottage* must not exceed 70 m² (753 ft²).”

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS	____ - ____ DAY OF	_____	20____
PUBLIC HEARING HELD THIS	_____ DAY OF	_____	20____
READ A SECOND TIME THIS	_____ DAY OF	_____	20____
READ A THIRD TIME THIS	_____ DAY OF	_____	20____
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____ DAY OF	_____	20____
ADOPTED THIS	_____ DAY OF	_____	20____

CHAIR

SECRETARY



Islands Trust

BYLAW REFERRAL FORM

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Victoria, B.C. BC V8R 1H8
Ph: (250) 405-5151
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www.islandstrust.bc.ca

Island: South Pender Island Local Trust Area Bylaw No.: 123 Date: December 13, 2021

You are requested to comment on the attached Bylaw for potential effect on your agency's interests. We would appreciate your response within 30 days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

APPLICANTS NAME / ADDRESS:

N/A

PURPOSE OF BYLAW:

The South Pender Island Local Trust Committee (LTC) is proposing to amend the South Pender Official Community Plan (OCP) to include a First Nation introductory/acknowledgement statement and a building design and siting guidelines as an attachment to the OCP.

Additional project background and staff reports are available on the Minor OCP Amendments project webpage:
<https://islandstrust.bc.ca/island-planning/south-pender/projects/>

GENERAL LOCATION:

South Pender Island Local Trust Area

LEGAL DESCRIPTION:

SIZE OF PROPERTY AFFECTED:

N/A

ALR STATUS:

N/A

OFFICIAL COMMUNITY PLAN DESIGNATION:

N/A

OTHER INFORMATION:

Additional information, including the current bylaws, is available at: www.islandstrust.bc.ca

Please fill out the Response Summary on the back of this form. If your agency's interests are "*Unaffected*", no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this Bylaw.

(Signature)

Name: Kim Stockdill

Title: Island Planner
Contact Info: Tel: 250-405-5157
Email: kstockdill@islandstrust.bc.ca

PLEASE TURN OVER

This referral has been sent to the following agencies:

Federal Agencies

N/A

Provincial Agencies

Ministry of Municipal Affairs & Housing
BC Assessment Authority

Non-Agency Referrals

N/A

Regional Agencies

Capital Regional District – Building Inspection

Adjacent Local Trust Committees and Municipalities

North Pender Island Local Trust Committee
Saturna Island Local Trust Committee

First Nations

Cowichan Tribes
Halalt First Nation
Lake Cowichan First Nation
Lyackson First Nation
Malahat First Nation
Pauquachin First Nation
Penelakut Tribe
Semiahmoo First Nation
Stz'uminus First Nation
Tsartlip First Nation
Tsawout First Nation
Tsawwassen First Nation
Tseycum First Nation
WSANEC Leadership Council

BYLAW REFERRAL FORM RESPONSE SUMMARY

☐

Approval Recommended for Reasons Outlined Below

☐

Approval Recommended Subject to Conditions Outlined Below

☐

Interests Unaffected by Bylaw

☐

Approval Not Recommended Due to Reason Outlined Below

South Pender Island Local Trust Area

(Island)

123

(Bylaw Number)

(Signature)

(Name and Title)

(Date)

(Agency)

PROPOSED

SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE BYLAW NO. 123

A BYLAW TO AMEND SOUTH PENDER ISLAND OFFICIAL COMMUNITY PLAN BYLAW NO. 107, 2011

The South Pender Island Local Trust Committee enacts in open meeting assembled as follows:

1. CITATION

This Bylaw may be cited for all purposes as “South Pender Island Official Community Plan Bylaw No. 107, 2011, Amendment No. 1, 2021”.

2. SCHEDULES

South Pender Island Official Community Plan No. 107, 2011 is amended as shown on Schedule 1, attached to and forming part of this bylaw.

3. SEVERABILITY

If any provision of this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid provision must be severed from the Bylaw and the decision that such provision is invalid must not affect the validity of the remaining provisions of the Bylaw.

READ A FIRST TIME THIS	5 TH	DAY OF	NOVEMBER	2021.
PUBLIC HEARING HELD THIS	_____	DAY OF	_____	20__
READ A SECOND TIME THIS	_____	DAY OF	_____	20__
READ A THIRD TIME THIS	_____	DAY OF	_____	20__
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____	DAY OF	_____	20__
APPROVED BY THE MINISTER MUNICIPAL AFFAIRS AND HOUSING THIS	_____	DAY OF	_____	20__
ADOPTED THIS	_____	DAY OF	_____	20__

CHAIR

SECRETARY

**SOUTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 123**

SCHEDULE 1

The South Pender Island Official Community Plan Bylaw No. 107, 2011, is amended as follows:

1. By adding the following new Subsection under Section '1.2 Introduction' and renumbering the Subsections accordingly:

"1.2.1 Acknowledgement and Reconciliation of First Nations Place, Context and Inherent Rights

S,DÁYES – wind drying

Central Coast Salish Peoples have occupied and utilized the lands and waters of S,DÁYES, the place now known as South Pender Island, since time immemorial. The SENĆOŦEN and Hul̓qumíñuṁ speaking people include the WJOŁŁP (Tsartlip), BOŖÉĆEN (Pauquachin), SŖÁUTW (Tsawout), WSIŖEM (Tseycum) and MÁLEXEL (Malahat) Nations; and the SEMYOME, Tsawwassen, Penelakut, Lyackson, Halalt, Stz'uminus, and Lake Cowichan Nations.

The WŚÁNEĆ Peoples (meaning The Emerging Peoples) speak a language called SENĆOŦEN, and have a rich and vibrant economic, social, cultural, and spiritual life that is connected to these lands and waters. The lands and waters of the WŚÁNEĆ Peoples is enriched with history, place names, village sites, cultural locations and ancestral resting places, and sacred sites that need to be honoured and respected. The history of the Central Coast Salish Peoples is sustained and continues in the language, oral history, place names, village sites, cultural and sacred sites, and landscapes that encompass this place they call home, it was never extinguished and continues in the treaty, and territorial lands and waters they caretake for future generations.

South Pender Island is also the location of the SŖÁUTW (Tsawout) First Nation and WSIŖEM (Tseycum) First Nation reserve #7. South Pender Island is a place with many village sites and places names including: QENENIW (meaning watching the slack tide); SMONEĆ (meaning pitch for fire-starting); SŖTIS (meaning candle neck duck); YEUWE (meaning fortune teller from oral history stories); and XELISEN – (meaning lost middle). The preservation and protection of village sites, cultural heritage sites, archaeological sites and objects, and ancestral resting places requires sensitivity and respect and is an important part of reconciliation. Cultivation areas both on land and in marine areas include camas meadows, reef-netting locations and clam gardens, and hunting and harvest areas for Indigenous food resources, inherent rights, and medicine.

The South Pender Island Local Trust Committee is committed to reconciliation and the acknowledgement of Indigenous place and history. The South Pender Island Local Trust Committee seeks to build relationships and to collaborate with First Nations and the Indigenous community to protect cultural places, preserve and increase access to culturally

significant species and food sources, and celebrate the culture, history, language, and art of First Nations within the area.

As part of the South Pender Island Local Trust Committee (LTC) commitment to support the goals of reconciliation the South Pender LTC recognizes the importance of preserving and protecting the following culturally significant plants and food/medicines for First Nations and Indigenous communities:

- SPÁÁNW (camas) and any areas of SPÁÁNW meadows or cultivation areas;
- KÁŦEŁĆ (ocean spray) a hardwood for making tools from arrows and harpoon shafts, to salmon skewers and needles;
- ELILE,İŁĆ (salmonberry) and DEKĖNİŁĆ (thimbleberry) plants their shoots and berries and cultivation areas;
- ŁEKES (Porphyra) edible seaweeds and the conservation of shoreline and upland areas that preserve ŁEKES habitat;
- Á,ĆEX (crab) a traditional food;
- SQŁÁ,İ, (littleneck clam), S,OXE, (butter) SWÁÁM (horse clam), STELO,EM, (cockles), ŁÁU,ĶEM, (bay mussel) and İEXİEX (pacific oyster) and the areas in which they are harvested; including conservation to reduce pollutants that lead to the closer and degradation of these species;
- XPÁ, (western red cedar) for house posts and planks, totem poles, dugout canoes, mats, baskets, clothing, and cordage, and the preservation of this species for future generation;
- ŦŦÁ,ELĆ (broad-leaf maple) for paddles and spindle whorls;
- JSÁ,İŁĆ (Douglas-fir), SKĖMÍ,ĖKS (grand fir), and KĖKĖYİŁĆ (arbutus) and the conservation of these species for future generations.

The South Pender LTC will undertake actions within its regulatory bylaws and advocacy work in collaboration with the local community to welcome and meaningfully include local First Nations and Indigenous community to the islands and waters of the area to:

- identifying sites of First Nations significance and ensure their protection;
- celebrate and look for opportunities to incorporate First Nation languages on public signage;
- advocate for the renaming places of significance;
- prioritize local Indigenous public art;
- respect and honour First Nations village sites and ancestral resting places;
- preserve traditional harvesting, fishing, and medicine gathering locations including fish trap areas, sacred places, traditional trails, canoe runs, and bathing sites, and allow for ceremonial use of those locations;
- advocate with community to create opportunities to learn, understand, and honour First Nations culture, history, and values;

- seek to engage meaningfully with local First Nations before developing park areas, public spaces, beach accesses, trails, and educational materials;
- consider changes to land use, building height and density to reduce impacts in areas defined as culturally sensitive and/or significant due to cultural heritage sites, or cultural food sources.”

2. By adding the following new clause to Article 3.1.2(a) (Land Use):

“v) If the Local Trust Committee considers Development Variance Permit applications to vary the maximum floor area of residential dwellings, ‘Appendix 10.1 South Pender Island Local Trust Committee Building Design and Siting Guidelines’ should be incorporated into the building proposal where feasible.”

3. By adding the following new part after ‘Part 9 – Administration’:

“PART 10 – APPENDICES

10.1 South Pender Island Local Trust Committee Building Design and Siting Guidelines

Vision Statement:

The South Pender Island Local Trust Committee Building Design & Siting Guidelines are intended to support the South Pender Island Official Community Plan and in particular, the following two Official Community Plan policies:

2.2.1 To maintain the island’s rural character so community members and visitors may continue to enjoy a sense of tranquility, privacy, freedom from disturbance, and relative self-sufficiency within a visually attractive environment.

2.2.4 To ensure land use, development, and associated servicing are compatible with the rural island character and that their growth is gradual and sustainable.

The guidelines draw upon objective criteria and a variety of approaches for creating thoughtfully designed, energy efficient dwellings and accessory buildings and structures which also relate to, and are in harmony with, the natural surroundings. The guidelines are intended to promote an appreciation of South Pender Island’s history, create an understanding of the rural character, and reinforce the regional identity. The guidelines are presented to encourage imaginative, site specific designs while achieving the guideline’s objectives for design, siting and size.

Purpose: The guidelines encourage the design and siting of buildings and structures on a property by considering the topography of the land, its ecology, and the natural and rural character of South Pender Island.

Objectives:

- To site buildings and structures on a property that will integrate with the landscape, through the use of a diversity of architectural styles and the use of exterior colours which compliment the natural character of the island;

- To encourage the use of energy saving technologies to reduce greenhouse gases;
- To encourage the consideration and respect of neighbouring properties when siting and designing a building or structure; and,
- To encourage designs of buildings and structures that maintain compatibility with the character of the neighbourhood and community, and to decrease the visual prominence of a building or structure.

Guideline 1 - Principles of Design

A design should consider every aspect of a building and its setting to achieve an outcome that responds to the needs of the individual while integrating into the landscape. Designs should also take into account future maintenance and repair requirements. Historically, most homes were simple, modest, and owners had the knowledge and ability to maintain and repair their homes.

- Consider designs in a restrained, proportionate, manner such that each building remains subordinate to the natural and rural character.
- Consider a diversity of styles. Avoid a repetition of a single style within a neighbourhood and choose designs that contribute to the overall character of the community.
- Complex designs or complicated construction methods and materials may difficult to source.
- Be consistent within an individual building. Avoid a variety of design features or those that are nonfunctional, or ostentatious.
- Consider age-friendly design principles to create easy access or reduce mobility issues.

Guideline 2 - Define the Objectives

Consider reducing the floor area of the building or structure while still achieving the desired form and function.

Guideline 3 - Selecting a Building Site

Selecting an appropriate building site can influence how successful a dwelling can blend into its natural surroundings. Siting of buildings and structures should be addressed at the pre-design stage and should utilize the natural topography while minimizing disturbance to the ecology and the visual impact in order to blend in with the nature environment. Consider local knowledge when siting dwelling units and take into account the particular micro-climate influences in your specific area, such as potable water sources, soil conditions, wind and rain direction, summer heat, early frosts, and drainage routes. Well selected building sites can offer shelter from the elements, privacy and take advantage of solar applications. Consideration should be given to the prominence of the building or structure and how it impacts views from adjacent properties and other view corridors.

Guideline 4 - Produce a Design Concept and Site Plan

- Prepare a visual design concept plan, building and elevation plans, and site plan that will achieve the objectives of these guidelines. A site contour map may also be beneficial.

Guideline 5 - Site Preparation

- Clear the land only where necessary while maintaining as much contiguous forest cover as possible. Prior to removing trees, consider shade requirements, wind direction, wildlife habitat, water retention and drainage. In addition, road access, services, drainage and sewage disposal should be considered along with location of buildings and structure which will result in a well-integrated site plan. Excessive excavation and its mitigation can be expensive, unnecessary, and damaging to the natural landscape.

Guideline 6 - Landscaping

- The character of the rural garden can be defined as something which requires minimal intervention to the existing landscape and native plants. Select plants that are deer resistant, drought tolerant and non-invasive.
- Planting zones can create pathways, enclosures, privacy, wildlife habitats, and can reduce or limit expansive areas of pavement and lawns. Planting can be used to soften the geometric impact between the built environment and the natural landscape.
- The endangered Coastal Douglas Fir ecosystem is one of the most important features of the community. Unnecessary fragmentation of this forest landscape is discouraged. Rather than cut trees for view corridors, consider “windowing” by trimming branches.

Guideline 7 - Hard surfaces and Paving Materials

- For driveways, patios, and walkways, avoid large, continuous areas of paving and consider using porous materials that permit percolation of water and aeration in soils.

Guideline 8 - Fencing

- Not every property needs a fence or wall along its entire perimeter. Keep fencing to a minimum around specific areas requiring protection and/or screening.
- Consider the neighbourhood and adjoining properties when designing and installing a fence or wall.”

DATE OF MEETING: January 27, 2022
TO: North Pender Island Local Trust Committee
FROM: Robert Kojima, Regional Planning Manager
Southern Team
COPY: Kim Stockdill, Island Planner
SUBJECT: Proposed New Fee Bylaw

RECOMMENDATION

1. That the North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be given First Reading
2. That the North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be given Second Reading
3. That the North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be given Third Reading
4. That the North Pender Island Local Trust Committee Bylaw No. 226, cited as “North Pender Island Local Trust Committee Fees Bylaw, 2021”, be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee

REPORT SUMMARY

The purpose of this report is for the North Pender Island Local Trust Committee (LTC) to consider three readings of Bylaw No. 226 which would replace Bylaw No. 178 (LTC Fees Bylaw) to include:

- An expanded Interpretation section.
- Fee increases for the various applications.
- Fees for applications received though work or activity is already undertaken or in operation.
- Clarification of collection of fees and refunds.
- A new section to address Extraordinary Service Costs (ESC)
- A new section to address Annual Fee Increases.

BACKGROUND

At the September 2021 regular business meeting, the LTC passed the following resolution:

NP-2021-094

It was Moved and Seconded

That the North Pender Local Trust Committee request staff to draft a new Fee Bylaw based on the model fee bylaw attached to Trust Council Policy “5.6.1 Application Processing Services.”

CARRIED

Rationale for Recommendation

At its regular business meeting in June 2021, Trust Council adopted a new Application Processing Services Policy that includes a model Fee Bylaw. At the same meeting, Trust Council recommended that local trust committees adopt new fees bylaws based on the model. In September, the LTC requested staff to draft a new Fee Bylaw based on the model fee bylaw.

Draft Bylaw No. 226 is attached. It is consistent with the model with the exception of the removal of the option for fees for Siting and Use Permits (Denman and Hornby only), and the removal of the option for TUPs for community benefit – this option was in the model to provide for flexibility to allow for reduced temporary use permits fees for community benefits as defined by a local trust committee in its official community plan. The OCP does not include policies for TUPs for community benefit; however, applicants can continue to seek sponsorship of applications from Executive Community for applications that provide a community benefit.

Submitted By:	Robert Kojima Regional Planning Manager	December 2, 2021
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ATTACHMENTS

1. Draft Bylaw No. 226

NORTH PENDER ISLAND LOCAL TRUST COMMITTEE

BYLAW NO. 226

A bylaw to prescribe fees for amending bylaws, issuing permits, examining applications for subdivision, and examining other referrals and applications.

WHEREAS Section 462 of the *Local Government Act* provides that a local government may, by bylaw, impose fees related to applications and inspections; Section 41 of the *Liquor Control and Licensing Act* and Section 35 of the *Cannabis Control and Licensing Act* provides that a local government may, by bylaw, impose fees for referral of a license under that Act;

NOW THEREFORE the North Pender Island Local Trust Committee, being the Local Trust Committee having jurisdiction in respect of the North Pender Island Local Trust Area in the Province of British Columbia pursuant to the *Islands Trust Act*, enacts as follows:

Citation

- 1.1 This bylaw may be cited as the "North Pender Island Local Trust Committee Fees Bylaw, 2021".

Interpretation

- 2.1 In this bylaw:

"Applicant" means:

- 2.1.1 the person authorized under the North Pender Island Local Trust Committee Development Procedures Bylaw No. 72, 1992 to make an application in respect of a bylaw or permit under the *Islands Trust Act* or Part 14 or Part 15 of the *Local Government Act*;
- 2.1.2 an applicant for a license under the *Liquor Control and Licensing Act* in respect of which the Local Trust Committee is requested or required to provide comments or recommendations;
- 2.1.3 an applicant for a license under the *Cannabis Control and Licensing Act* in respect of which the Local Trust Committee is requested or required to provide comments or recommendations;
- 2.1.4 an applicant for subdivision review under the *Land Title Act* or the *Strata Property Act*;
- 2.1.5 an applicant for the conversion of a previously occupied building to strata lots under the *Strata Property Act*;
- 2.1.6 an applicant for a soil deposit permit or soil removal permit issued pursuant to a bylaw enacted under Part 14 of the *Local Government Act*; or
- 2.1.7 an applicant to a board of variance established under Part 14 of the *Local Government Act*.

“Application Processing Fee” means the initial amount payable to the Islands Trust in respect of any application under this bylaw.

“General Service Cost” includes average hourly cost of each staff position involved in processing the applications multiplied by the average number of hours taken to complete processing of that type of application, and includes administrative overhead costs.

“Estimated Direct Costs” for bylaw amendments listed in Table 1 means the Islands Trust’s estimate of its actual average cost of disbursements associated with the processing of an application, including:

1. newspaper advertising for one community meeting,
2. notifications, postal and delivery costs of statutory notifications for one public hearing,
3. rental of premises for one community meeting and/or one public hearing,
4. contract minute-taker costs recording or preparation of minutes of one community meeting and/or one public hearing and,
5. staff travel expenses for one site visit, one community meeting and one public hearing.

“Estimated Direct Costs” for temporary use permits listed in Table 2 means the Islands Trust’s estimate of its actual average cost of disbursements associated with the processing of an application, including

1. one newspaper advertisement, notifications, postal and delivery costs of statutory notifications for one community meeting,
2. rental of premises for one community meeting,
3. contract minute-taker costs recording or preparation of minutes of one community meeting, and
4. staff travel expenses for one site visit, one community meeting.

“Islands Trust” means the Director of Local Planning Services or their authorized representative.

Application Fees

- 3.1 Prior to the processing of an application listed in Column 1 of Table 1, Table 2, Table 3 or Table 4, the applicant must deliver to Islands Trust the corresponding application processing fee in the amount shown in Column 2 subject to section 4. The application fee includes general service costs and estimated direct costs.

TABLE 1 – Bylaw Amendments (OCP and Zoning Bylaw	
Column 1: Type of Application	Column 2: Fee
Major (e.g. change to density or OCP)	\$7,800
Minor (e.g. regulation change without changing density or OCP amendment)	\$4,600

TABLE 2 – Permits	
Column 1: Development Permit in Respect of:	Column 2: Fee
1. Protection of Natural Environment, Ecosystems and Biological Diversity	\$1,000
2. Protection of Development from Hazardous Conditions	\$1,000
3. Protection of Farming	\$1,000
4. Objectives for Form and Character	\$1,700
5. Objectives to Promote Energy Conservation	\$1,000
6. Objectives to Promote Water Conservation	\$1,000
7. Objectives to Promote the Reduction of Greenhouse Gas Emissions	\$1,000
8. Development Permit Amendment	\$1,000
Type of Development Variance Permit	
9. Development variance permit (commercial, industrial or institutional development)	\$1900
10. Development variance permit (residential development)	\$1900
Type of Temporary Use Permit	
11. Temporary Use Permit (residential/commercial/industrial)	\$2150
12. Temporary Use Permit Renewal	\$700
Other Permits	
13. Heritage Alteration Permit	\$1,700
Combination Applications	
14. Development Permit in respect of a protection area or water and energy conservation in combination with a companion application for a Development Variance Permit	\$2,500
15. Development Permit in respect of form and character in combination with a companion application for a Development Variance Permit	\$3,000

TABLE 3 – Subdivision Referrals	
Column 1	Column 2: Fee
1. Application for Subdivision Review – base fee	\$1,000
2. Application for Subdivision Review – per additional lot created	\$100
3. Application for Subdivision Review – parcel line adjustments only, creating no additional parcels	\$500

TABLE 4 – Other Applications	
Column 1: Type of Application	Column 2: Fee
1. Board of Variance	\$2,200
2. Land Use Contract amendment	\$2,000
3. Liquor & Cannabis Regulation Branch – Retail License Application and Process and referrals requiring local government consultation	\$1,500
4. Liquor & Cannabis Regulation Branch – Temporary License Change	\$500
5. Strata Conversions	\$1,500

4. Fee for After-the-Fact Application

- 4.1 An application for a permit or bylaw amendment to authorize work or an activity already undertaken, or in operation as of the date the application is made, the rate in 3.1 will be subject to a 20% surcharge.

5. Collection and Refund of Application Processing Fee Amounts

- 5.1 The total application processing fee must be received before the processing of the application can begin.
- 5.2 An applicant may withdraw their application at any time through written notice to the Planning Team Assistant and/or the Planner responsible for processing the application.
- 5.3 If an applicant withdraws an application before staff undertakes any planning work on the application, the Islands Trust must refund to the applicant the Application Fee, less \$100.
- 5.4 For an application in Table 1, or a Temporary Use Permit in Table 2, the applicant will be eligible for: 75% refund if the application is withdrawn once the file has been assigned by the regional planning manager to the planner; 50% refund if the first staff report has been submitted to the LTC; 25% refund once public notice of a public hearing or permit has been sent out, no refund will be provided after a Public Hearing or after consideration of the Permit by the local trust committee.
- 5.5 For applications in Table 2 (except for Temporary use Permit applications), Table 3 and Table 4, the applicant will be eligible for: 75% refund if the application is withdrawn once the file has been assigned to the planner; no refund will be provided if the first staff report has been submitted to the LTC, Board of Variance, or formal referral response submitted to the relevant agency.

6. Extraordinary Service Costs (ESC)

- 6.1 Extraordinary Services Costs will be paid by the Applicant through a cost recovery agreement, entered into with Islands Trust, in addition to the application processing fee.
- 6.2 Where legal work is required for the preparation of covenants, registration of covenants at Land Title Offices, registration of notice of a permit or housing agreement at the Land Title Office or for other purposes related to the application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.3 Where site visits involving First Nations are required for the processing of an application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.4 Where there may be need for additional community information meeting or public hearing not covered by the application processing fee, staff will provide the Applicant with an estimate of costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.5 Where other additional costs beyond the general service costs and estimated direct costs not specified above are required for processing of an application, staff will provide the Applicant with an estimate of the costs. The Applicant will pay a deposit of 150% of this estimate.
- 6.6 If the amount paid by Islands Trust in respect of Extraordinary Service Costs is less than the deposit provided to the Islands Trust, the Islands Trust shall provide the Applicant with the amount and the applicant shall pay the amount upon receipt. The local trust committee may withhold the consideration of issuance of any permit or hold the consideration of adoption of any bylaw in abeyance until the amount has been paid.
- 6.7 Islands Trust must refund the unused portion of any Extraordinary Service Costs deposit to the applicant if it is unused for any reason.

7. Annual Fee Increases

- 7.1 Fees in section 3.1 increase by 2% on April 1st of each year following the date of adoption of the bylaw.
- 7.2 The North Pender Island Local Trust Committee will maintain a record of annual 2% increases and make that record available for public inspection.

8. Application Fee Sponsorship

- 8.1 Pursuant to Islands Trust Policy 4.1.13, Guidelines for Executive Committee Sponsored or Local Trust Committee Initiated Development Applications, an applicant may apply to the Executive Committee of Islands Trust for development application fee sponsorship.

9. Severability

- 9.1 In the event a portion of this bylaw is set aside by a court of competent jurisdiction, the invalid portion shall be severed and the remainder of the bylaw remains in force and in effect.

10. Repeal

- 10.1 “North Pender Island Local Trust Committee Fees Bylaw No. 178, 2007” is repealed upon adoption of this bylaw.
- 10.2 Any application for which a fee has been fully paid at the time this bylaw comes into force shall be processed to completion in accordance with the fee provisions of the repealed bylaw.

READ A FIRST TIME THIS _____ DAY OF _____, 202X

READ A SECOND TIME THIS _____ DAY OF _____, 202X

READ A THIRD TIME THIS _____ DAY OF _____, 202X

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS _____ DAY OF _____, 202X

ADOPTED THIS _____ DAY OF _____, 202X

CHAIR

SECRETARY



Top Priorities Report

North Pender Island

1. *STVR Review Project*

Bylaw No. 222 was given First Reading, referrals have been sent, and Public Hearing and Community Information Meeting held on February 25, 2021.

Responsible

Kim Stockdill

Dates

Rec'd: 05-Sep-2019
Target: 01-Jul-2021

2. *Groundwater Sustainability Project*

Phase 1 and 2: Groundwater Sustainability Mapping Project (2019-2020) - Completing in spring 2021

Responsible

Narrisa Chadwick
William Shulba

Dates

Rec'd: 29-Nov-2018
Target: 30-Sep-2022

Phase 3: Groundwater Mapping Implementation -
- Project Charter - January 2021

3. *LUB Review Project*

Project is in the community consultation phase. Recommendations for a draft bylaw will be considered by the LTC in late 2021.

Responsible

Kim Stockdill

Dates

Rec'd: 07-Nov-2019
Target: 01-Jan-2022

4. *Soil bylaw*

To consider a soil deposit and removal bylaw

Responsible

Dates

Rec'd: 25-Mar-2021
Target: 31-Mar-2022

Projects Report

North Pender Island

1. *Coastal Douglas Fir Ecosystem*

Responsible

Date Received

Consider implementation of toolkit and mapping
- LPC to develop model bylaw in 2021-22

01-Feb-2019

2. *Soil Removal and Deposit Bylaw*

Responsible

Date Received

To investigate adopting a soil removal and deposit bylaw

02-Jul-2020



Applications

Board of Variance

File Number	Applicant Name	Date Received	Purpose
NP-BOV-2021.2	Grant, Chelsea	11-Nov-2021	This is a proposal, submitted by Chelsea Grant, Architect, on behalf of the owners, Charles and Jane Keay, for the foreshore revetment strategy at 2603 Galleon Way, on North Pender Island, for review and consideration by the Board of Variance.

Planner: Phil Testemale

Planning Status

Status Date: 19-Jan-2022

Order issued to grant variance with amendment (further height limit).

Status Date: 22-Dec-2021

Hearing scheduled for January 19, 2022

Status Date: 01-Dec-2021

Sent Board of Variance Application package to the North Pender Island Board of Variance members. Copied Jas, Maple and Robin.

Development Permit

File Number	Applicant Name	Date Received	Purpose
NP-DP-2018.5	PICSS c/o HARDAL MANAGEMENT INC	23-May-2018	Application for development permit for a building in a form and character DPA

Planner: Phil Testemale

Planning Status

Status Date: 17-May-2021

Associated Subdivision (2017.3) is nearing completion. Applicants will be initiating work on form and character DP

Status Date: 13-May-2020

Nu to Yu - File on hold awaiting building and landscaping plans from applicant. x- ref to NP-RZ-2016.4 and NP-SUB-2017.3

Status Date: 06-Jun-2018

Issued receipt for cheque, pink copy to Finance and original scanned with cheque for e-files; emailed scanned receipt and cheque to Applicant, mailed original; added hard copy to application folder.



Development Permit

File Number	Applicant Name	Date Received	Purpose
NP-DP-2021.7	Brodie, Arlynn	05-Oct-2021	433 ARBUTUS SPUR - Application for a DP for development in a sensitive ecosystem DPA.

Planner: Phil Testemale

Planning Status

Status Date: 06-Jan-2022

January 27, 2022 agenda for further consideration.

Status Date: 05-Jan-2022

Site visit (January 6th) organized and subsequently cancelled.

Status Date: 03-Nov-2021

December 4, 2021 Agenda for consideration.

File Number	Applicant Name	Date Received	Purpose
NP-DP-2021.8	Clarke, Denver	02-Nov-2021	Applicant is applying for a development permit, in order to plant native species trees in the Woodland DPA at 2634 Lighthouse Lane, North Pender Land.

Planner: Phil Testemale

Planning Status

Status Date: 20-Jan-2022

January 27, 2022 agenda for consideration

Status Date: 19-Jan-2022

Cost Estimate rec'd from Caurinus Environmental

Status Date: 22-Dec-2021

Sent LTC package to North Pender Local Trust Committee. Copied Jas.



Applications

Development Permit

File Number	Applicant Name	Date Received	Purpose
NP-DP-2021.9	Ooms, Peter	13-Dec-2021	Building a vacation cottage

Planner: Phil Testemale

Planning Status

Status Date: 20-Jan-2022

February 24 Agenda for consideration.

Status Date: 20-Dec-2021

Sent LTC Application Package to North Pender Island Local Trust Committee. Copied Jas, Maple and Robin.

Status Date: 16-Dec-2021

Created folder in EDM.

Subdivision

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2008.9	Jl Properties Inc	21-Oct-2008	James Island - To create 83 lots

Planner: Phil Testemale

Planning Status

Status Date: 21-Apr-2021

Correspondence from applicant's legal counsel on April 29, 2021 LTC agenda

Status Date: 17-Mar-2021

In camera meeting scheduled for March 26, 2021

Status Date: 18-Feb-2021

Feb 25, 2021 agenda for acceptance of covenants. Cash-in-lieu pending review and CRD Board approval



Applications

Subdivision

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2012.4	Edgewood Estates c/o Graham Ross	29-Nov-2012	2218 CLAM BAY RD: referral of a bare land strata subdivision application for 11 lots, including remainder

Planner: Kim Stockdill

Planning Status

Status Date: 04-May-2021

PLR request received. Extension for one year granted by MOTI.

Status Date: 08-Mar-2021

PLA extension request received. Replied with no objections.

Status Date: 02-Jul-2020

Access road construction plans submitted for information.

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2017.3	Jim Petrie	19-Dec-2017	Referral of a subdivision application for 2 lots

Planner: Phil Testemale

Planning Status

Status Date: 20-May-2021

Awaiting easements (water) and final subdivision plan to compete.

Status Date: 09-Sep-2020

Revised Drainage report -complies with sub regs. E-mail to applicant and cc'd to MoTI

Status Date: 05-Aug-2020

Drainage report submitted and reviewed. Request certification ref. sub regs (4.6.9)



Applications

Subdivision

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2020.1	BRADFORD & MILLIKEN	05-Mar-2020	1610 Schooner Way - A subdivision referral for two lot boundary adjustment. MoTI file #: 2020-00549

Planner: Phil Testemale

Planning Status

Status Date: 02-Apr-2021

PLR from MoTI rec'd. Applicants reviewing options.

Status Date: 17-Mar-2021

Combined DVP/DP required.

Status Date: 05-Feb-2021

Review Response sent to MoTI.

File Number	Applicant Name	Date Received	Purpose
NP-SUB-2020.2	Wey Mayenburg Land Surveying Inc.	31-Aug-2020	4242, 4246, 4250 Armadale Road - Referral of a subdivision application for proposed two lots.

Planner: Phil Testemale

Planning Status

Status Date: 18-Mar-2021

VIHA Letter rec'd - Condition 6 MoTI requiring verification of septic fields

Status Date: 17-Mar-2021

DVP req'd

Status Date: 09-Mar-2021

PLR rec'd



Temporary and Industrial Use Permit

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2021.10	White, Jaime	28-Nov-2021	Seeking approval for temporary use permit for short-term rentals.

Planner: Phil Testemale

Planning Status

Status Date: 12-Jan-2022

February 24, 2022 agenda for consideration.

Status Date: 06-Dec-2021

Received fee for \$900.00; Accounts Receivable issued a receipt to Jaime White.

Status Date: 06-Dec-2021

File assigned to Phil Testemale.

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2021.11	Janzen, Jesse	02-Dec-2021	Short-term rental property.

Planner: Phil Testemale

Planning Status

Status Date: 20-Jan-2022

February 24, 2022 Agenda for consideration.

Status Date: 07-Jan-2022

The applicant responded to Robert's email and confirmed that he has made changes to his rental guidelines. I have added this additional information to the applicant's application folder, in the Cabin Rules document, under Additional Information. Robert asked me to open the file and assign the file to Phil. - SO

Status Date: 07-Jan-2022

File assigned to Phil.



Temporary and Industrial Use Permit

File Number	Applicant Name	Date Received	Purpose
NP-TUP-2021.9	Persello, Darryl	03-Nov-2021	Received email from applicant, who would like to renew Temporary Use Permit for another 3-year-term.

Planner: Phil Testemale

Planning Status

Status Date: 26-Nov-2021

Renewal application - January 27, 2022 agenda for consideration

Status Date: 12-Nov-2021

Sent application package to North Pender Island Local Trust Committee.

Status Date: 10-Nov-2021

Requested mailing list and Subject Property map from GIS Helpdesk.

Islands Trust
LTC EXP SUMMARY REPORT F2022
Invoices posted to Month ending November 2021

650 North Pender	Invoices posted to Month ending November 2021	<u>Budget</u>	<u>Spent</u>	<u>Balance</u>
65000-650	LTC "Trustee Expenses"	510.00	0.00	510.00
LTC Local				
65200-650	LTC - Local Exp - LTC Meeting Expenses	3,470.00	1,729.75	1,740.25
65210-650	LTC - Local Exp - APC Meeting Expenses	444.00	0.00	444.00
65220-650	LTC - Local Exp - Communications	250.00	0.00	250.00
65230-650	LTC - Local Exp - Special Projects	294.00	0.00	294.00
TOTAL LTC Local Expense		<u>4,458.00</u>	<u>1,729.75</u>	<u>2,728.25</u>
Projects				
73001-650-2006	North Pender OCP/LUB	5,000.00	624.15	4,375.85
73001-650-4115	North Pender Groundwater Strategy Implementation	2,500.00	79.95	2,420.05
73001-650-4116	North Pender Soil Bylaw	4,000.00	0.00	4,000.00
TOTAL Project Expenses		<u>11,500.00</u>	<u>704.10</u>	<u>10,795.90</u>

Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2020-026 (Standing) that the North Pender Local Trust Committee direct bylaw enforcement to not enforce on restaurants or liquor primary establishments setting up temporary structures within their respective lots contrary to parking regulations and existing development permits while Covid-19 restrictions limiting seating capacity and occupancy are in place and subject establishments receiving required provincial approvals such as from the Liquor and Cannabis Regulation Branch and establishments following relevant provincial protocols.	Carried	21-May-2020
2020-012 (Standing) That the North Pender Island Local Trust Committee has no objection to Liquor and Cannabis Regulation Branch issuance of Temporary Expanded Service Area Authorizations for liquor primary and manufacturer licensees within the North Pender Island Local Trust Area.	Carried	19-Jun-2020
2020-011 (Standing) That given the COVID-19 pandemic and the declaration of a state of emergency throughout the Province of British Columbia, the North Pender Island Local Trust Committee directs that bylaw enforcement action be deferred in the following circumstances: 1. A commercial use operating in a residential zones, provided that the use: a. was lawfully operating within the local trust area prior to the declaration of the state of emergency; b. has been forced to vacate lawfully zoned premises as the result of COVID-19 related orders, guidance or effects; c. is currently operating from premises where the principal residence of the owner or operator of the commercial use is located; d. is complying with the home business regulations (Section 3.5) of the Land Use Bylaw other than: i. being a prohibited use under subsection 3.5.3 and; ii. may be conducted outside of a permitted building (subsection 3.5.1), provided it is not operated within a setback area; and e. is complying with health or provincial requirements. 2. Upon the lifting of the state of emergency, deferred enforcement action may be commenced, but owners or operators should be provided with a reasonable time to comply.	Carried	04-Jun-2020



Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2020-010 (Standing)	Carried	30-Jan-2020
that the North Pender Island Local Trust Committee adopt the following policy on unlawful land uses and planning applications: a. Where an application is received and a use is continuing in contravention of a land use bylaw, staff are directed to request that the applicant cease the use prior to processing the application, and staff are directed to continue with enforcement until the use is ceased. b. The applicant may request that the Local Trust Committee proceed with consideration of the application while the use is continuing; and, where the Local Trust Committee considers there is a community need to process the application while the prohibited use is continuing, the Local Trust Committee may direct that bylaw enforcement actions, including the issuing of notices, cease. c. Where the Local Trust Committee does not consider that there is a community need, or the applicant has not made such a request of the Local Trust Committee, bylaw enforcement actions, including the issuing of notices will continue d. In deciding whether to grant land use approval for a use that was commenced in contravention of a land use bylaw, the Local Trust Committee may consider whether the applicant has suspended the prohibited land use pending a decision on the application.		
2019-119 (Standing)	Carried	28-Nov-2019
that the North Pender Island Local Trust Committee place a moratorium on new Short Term Vacation Rental Temporary Use Permits for a limited time while the Local Trust Committee completes the Short Term Vacation Rental Review.		
2019-074 (Standing)	Carried	04-Jul-2019
that the North Pender Island Local Trust Committee adopt the model cell tower strategy for future review and consideration of proposals.		



Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2019-072 (Standing)	Carried	04-Jul-2019
that the North Pender Island Local Trust Committee adopt the following standing resolution with respect to First Nations in the Local Trust Area: Whereas the Local Trust Committee seeks to engage in Reconciliation with local First Nations, governments and the island community by honouring the Truth and Reconciliation Commission (TRC) Calls to Action, United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples, and Islands Trust First Nations Engagement Principles, the Local Trust Committee endeavours to: a) Annually, write a letter to First Nations, (re)introducing trustees and staff and provide a schedule of known Local Trust Committee meetings for the upcoming year, as well as, provide an update of current projects and advocacy activities; b) For various Local Trust Committee meetings, invite elders from local First Nations to attend and provide a traditional welcome to the territory; c) Work with First Nation governments on cooperative initiatives, including and not limited to, language, place names, territorial acknowledgements, and community education on Coast Salish and local First Nations' cultural heritage and history; d) Work with First Nation governments on engagement principles for inclusive land use, marine use, and climate change planning; advocacy, protection and stewardship; and knowledge and information sharing protocols; e) Establish and maintain government-to-government dialogue with First Nations, now and into the future, based on respect and recognition of Aboriginal rights and title, treaty rights, and First Nations' traditional territories within the Islands Trust Area.		
2019-061 (Standing)	Carried	30-May-2019
that the North Pender Local Trust Community refer Short Term Vacation Rental Temporary Use Permits in the Magic Lake sewer catchment to the Magic Lake Sewer and Water Committee to confirm infrastructure capacity.		
2019-030 (Standing)	Carried	28-Feb-2019
that the North Pender Island Local Trust Committee request that prior to expiration of Advisory Planning Commission members terms of office, staff write to commissioners asking if they wish to be reappointed and also advertise for expressions of interest for new commissioners.		



Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2019-016 (Standing) that the North Pender Island Local Trust Committee directs bylaw enforcement officers to commence bylaw investigations and enforcement without written complaint if bylaw violations related to disposal or storage of waste or recyclable materials or storage of vehicles or vehicle parts are observed by the bylaw enforcement officer while doing inspections for other issues or if it is reliably reported to the officer that such activity may be taking place.	Carried	31-Jan-2019
2018-070 (Standing) that the North Pender Island Local Trust Committee adopt the following standing resolution with respect to the processing of non-medical cannabis retail license applications: - Proposed or amended licenses for non-medical cannabis retail establishments require an application to the Local Trust Committee. - The application process shall comprise a public consultation component, which includes at least one notification to neighbours, one public meeting, posting of public notices and one advertisement in a local periodical. - The public consultation process shall be determined by the local trust committee after initial review of the proposal. - However, as a minimum, the Local Trust Committee will mail or otherwise deliver a notice to all owners and residents of properties within a 500 metre radius of the subject property, where the establishment is proposed at least 10 days before adoption of a resolution providing comment on the application. The required notice shall include the following information: o Name of the applicant and a description of the proposal in general terms. o The location of the proposed establishment and the subject site. o The place, date and time when, both a build meeting will be held and a resolution of the Local Trust Committee is considered. o The name and contact information of the Islands Trust planning staff member who can provide copies of the proposed or amended license application. o How public comments may be submitted to the local trust committee.	Carried	06-Sep-2018
2011-050 (Standing) It was Moved and Seconded that the North Pender Island Local Trust Committee direct staff that they will adopt In Camera minutes when there are other reasons to close a meeting to the public.	Carried	28-Apr-2011
2007-146 (Standing) THAT where a Liquor Control and Licensing Branch Special Occasion License referral relates to property on which North Pender Island Land Use Bylaw No. 103 permits public assembly uses, such as restaurants, community halls or church halls, and there are no issues related to parking or past complaints, staff may approve the Special Occasion License without referral to the Local Trust Committee. All other Special Occasion License referrals are to be referred to the Local Trust Committee for consideration.	Carried	30-Aug-2007

Standing Resolutions Log

North Pender Island

Resolution Number	Action	Date
2006-080 (Standing) Policy Number NP-LTC-01-06 (Communications Policy) establishes guidance for the preparation and dissemination of routine non-statutory notices, extraordinary notices and trustee newsletters.	Carried	25-May-2006
2005-005 (Standing) The LTC will appoint Advisory Planning Commission members as representative of various local areas on North Pender and/or representative of various community organizations	Carried	27-Jan-2005



ISLANDS TRUST CONSERVANCY REPORT TO LOCAL TRUST COMMITTEES AND BOWEN ISLAND MUNICIPALITY

HIGHLIGHTS OF ISLANDS TRUST CONSERVANCY NOVEMBER 23, 2021 BOARD SPECIAL MEETING (OPEN PORTION)

NOTE: For more detail on Conservancy meetings, including meeting minutes, please visit
<https://islandstrust.bc.ca/whats-happening/meetings-and-events/>

1. ORGANIZATION UPDATES/TEAM

- The Islands Trust Conservancy (ITC) Manager welcomed Carmen Smith as the new acting Communications Specialist, noting she was not able to make this meeting, but will be introduced at the January 25, 2022 meeting.

2. STRATEGIC PLANNING/ADMINISTRATION

- The ITC Ecosystem Protection Specialist presented the revised Climate Change project charter. Board members discussed contributions, mitigation and adaptation to climate change, criteria for projects, costs, and staff time. Purpose statement for the program was revised to: *'To conduct a pilot analysis of climate change impacts, including the opportunities for ITC properties to contribute to climate change mitigation and adaptation where possible, for 2—3 ITC Nature Reserves, as a first step in adapting ITC's work to best protect local species and ecosystems through climate futures.'*
- The Species at Risk Project Coordinator presented the Species at Risk project charter which was approved as is.
- The ITC Manager provided an overview to Board members of current staff workloads, and changes over the last three years, and commented that there have been several changes in Islands Trust and ITC administrative systems. ITC staff plan to bring suggestions to the Board in January on how to prioritize work items and manage staff workload, to prevent staff burnout and best meet the goals of the ITC Board.
- ITC Meeting Procedure and Bylaw Amendment decision request was deferred to the January 25, 2022 ITC Board Meeting.
- The Islands Trust Conservancy Board (ITCB) directed staff to schedule the 2022 ITCB meeting dates of March 15th, May 24th, October 4th, and November 22nd, 2022 as electronic meetings, and list the Victoria office boardroom as the public meeting location.
- The ITCB approved the attendance for Trustees Fast, Fenton, Stamford and Smith to attend the Salish Sea Ecosystem Conference, and allocated up to \$200 for registration.



ISLANDS TRUST CONSERVANCY REPORT TO LOCAL TRUST COMMITTEES AND BOWEN ISLAND MUNICIPALITY

3. COVENANT AND PROPERTY ACQUISITIONS

- The Ecosystems Protection Specialist reported both the Moss Mountain (Salt Spring) Pare-Baile (North Pender) NAPTEP covenants were successfully signed and registered in October and the tax exemption certificates were issued.
- The Ecosystem Protection Specialist presented a conservation proposal to expand the Nighthawk Hill NAPTEP covenant (North Pender) to Board members; noted this was an extension of the current covenant.

4. COVENANT AND PROPERTY MANAGEMENT

- The ITC Property Management Specialist presented the 2021 Nature Reserves monitoring report to the board. Report was accepted as is.
- The ITC Covenant Management and Outreach Specialist presented the 2021 Covenant monitoring report to the board. The report was accepted as is, and staff were directed to address issues identified in the report.
- The ITC Manager presented a development variance permit (DVP) referral for a Hornby DVP application adjacent to an ITC conservation covenant. The Board moved that ITC staff respond to the Hornby Island Local Trust Committee recommending that the development variance permit be declined because of insufficient setback distance from the ITC Covenant and the protected prairie oak (Garry oak) habitat and that the landowner be encouraged to cancel their plans for the construction of a pool in Garry oak habitat. The Board also recommended actions to protect the covenant should the Hornby Island Local Trust Committee approve the application.

5. COMMUNICATIONS AND OUTREACH

- The Ecosystem Protection Specialist briefed board members on bull kelp mapping for the Islands Trust area. Board members suggested making the mapping public and available to researchers, and keeping track of data requests.
- The ITCB accepted the Public Acquisitions Report and the Public Covenants Report (for information)
- Correspondence was received from Margaret Taylor, a Gabriola Island resident. Her letter raised concerns of development on Gabriola. The ITC Board directed staff to forward the letter to the Gabriola Island Local Trust Committee and requested that the Chair respond to Ms. Taylor.

6. FUNDRAISING AND CONSERVANCY SUPPORT

- The ITC Manager provided the 2022-23 budget request to the Board for information, including the updated business case for a Strategic Fundraising position. The budget request was approved at the October ITCB meeting.



ISLANDS TRUST CONSERVANCY REPORT TO LOCAL TRUST COMMITTEES AND BOWEN ISLAND MUNICIPALITY

To find out more about Islands Trust Conservancy and our current goals, to donate to our Opportunity Fund, or to subscribe to email updates, visit our website: <https://islandstrust.bc.ca/conservancy/>

Shortcuts of interest:

- **Goals:** <https://islandstrust.bc.ca/conservancy/conservation-planning/>
- **Opportunity Fund:** (context) <https://islandstrust.bc.ca/conservancy/supporting-local-conservancies/opportunity-fund-grants/> ; (to donate online) <https://islandstrust.bc.ca/donate-to-conservancy/>
- **Request key updates via email:** <https://islandstrust.bc.ca/subscribe/> (NB: by scrolling down, you may also add your home address for a free hardcopy of the Heron newsletter, published three times per year)

BRIEFING

To: Local Trust Committees **For the Meeting of:** TBA

From: David Marlor, Director, Local Planning Services **Date Prepared:** December 15, 2021

SUBJECT: Shoreline Protection Model Bylaw Report

PURPOSE:

The purpose of this briefing is to provide the subject report to each local trust committee.

BACKGROUND:

Trust Council passed a resolution in September, 2021 requesting that Staff forward the Shoreline Protection Model Bylaw Report dated March 2021 to local trust committees and Bowen Island Municipality for information.

This report was undertaken by the Regional Planning Committee in accordance with Islands Trust Strategic Plan Item 2.3. "Undertake a review of Local Trust Committee- Bowen Islands Municipality foreshore policies and regulatory bylaws and develop model policy and regulatory bylaws for the protection of the foreshore and nearshore."

This report undertakes a review of official community plan and land use bylaw provisions for shoreline protection in the Islands Trust Area as well as examples from outside the Islands Trust Area, and provides recommendations for local trust committees and Bowen Island Municipality to consider when developing new, or updating existing shoreline policies and regulations.

ATTACHMENT(S):

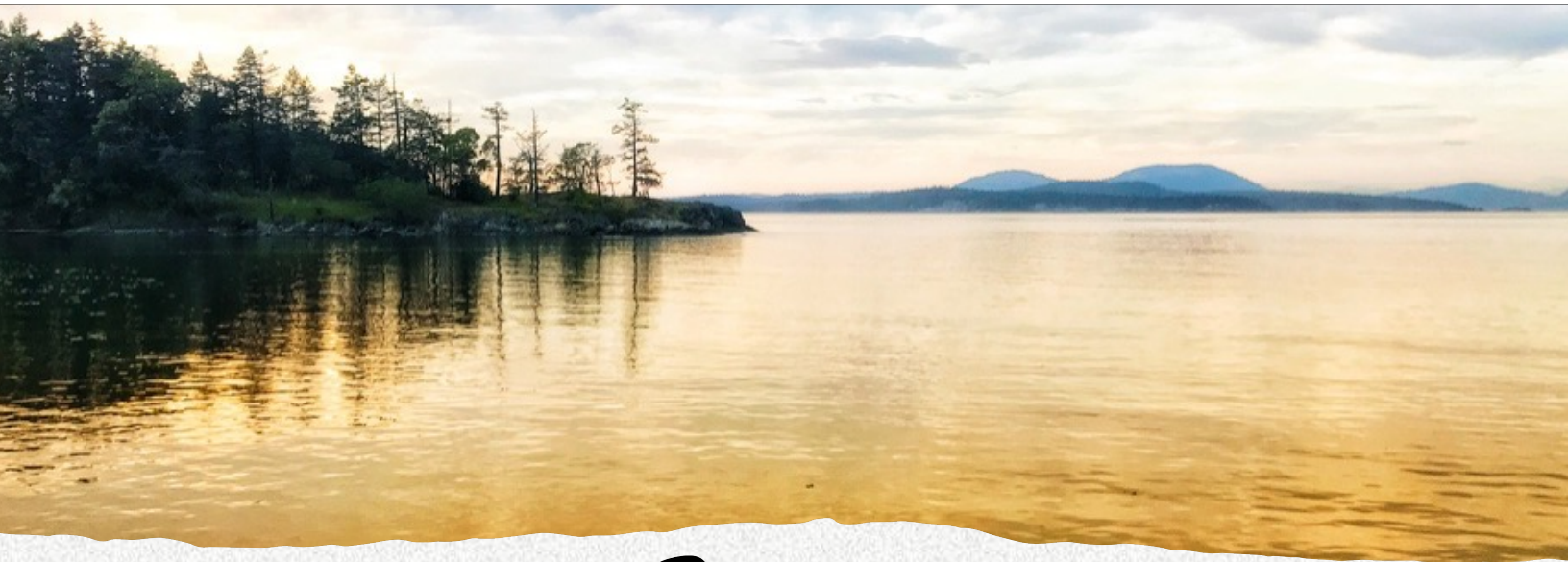
1. Shoreline Protection Model Bylaw Report

FOLLOW-UP:

A requested by the local trust committee. Note that any work on shoreline would be a project of the local trust committee with relevant consideration of staff and budget resources.

Prepared By: David Marlor, Director, Local Trust Committees

Reviewed By/Date:



Islands Trust

Shoreline Protection Model Bylaw Report
March 2021

ACKNOWLEDGEMENTS

This Report is possible through the financial support of the Islands Trust.

We would like to thank all those who participated in the Islands Trust Shoreline Review Model Bylaw Project.

Islands Trust

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Denman Island Local Trustee
Chair, Islands Trust Council Regional Planning Committee

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It is a privilege to write this guide and we acknowledge the lands described in this report are within the ancestral territory of the Coast Salish people and as a reminder we are all connected.

We are in a sacred relationship with all things in the natural world – the land, waters, and air, and all of the plants and animals we live with. Respect for the spirit and life in each of these, and the intricate relationships and interconnectedness we are all in together is a key value and principle of our culture.



TABLE OF CONTENTS

OVERVIEW5

HERITAGE AND CULTURAL CONSIDERATIONS7

GREEN SHORES..... 12

GUIDELINES ON MITIGATION AND ADAPTATION TO SEA LEVEL RISE 13

BC MARINE COASTAL SHORELINES JURISDICTION 15

LEGISLATIVE FRAMEWORK FOR SHORELINE PROTECTION STRATEGIES 18

RECOMMENDATIONS29

APPENDICES.....32

REGULATIONS – ISLANDS TRUST AND OTHER EXAMPLES.....32

REFERENCES43

OVERVIEW

Located in the islands and waters of the Salish Sea, between the British Columbia mainland and southern Vancouver Island, the Islands Trust encompasses 13 major and more than 450 smaller islands, covering 5,200 square kilometers. The area is home to the highest density of species at risk in Canada and some of the most diverse and sensitive marine ecosystems in the world. The region's rich forests, soils, wetlands, and ocean vegetation act as important carbon sinks, mitigating greenhouse gas emissions and buffering communities against the impacts of climate change. The ecological significance and sensitivity of the region, and the need for protective measures, were internationally recognized in 1973.

The Islands Trust Area is located within the Coast Salish territory and is the homeland to over 28,000 Coast Salish Peoples who have called this place home since time immemorial. In 2019, Islands Trust Council passed a Reconciliation Declaration and committed to a Reconciliation Action Plan as per the Truth and Reconciliation Commission (TRC) Calls to Action. Islands Trust is committed to building meaningful relationships with First Nations in the Trust Area, protecting cultural heritage, and upholding the principles embodied within the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the BC Declaration on the Rights of Indigenous Peoples Act (DRIPA); the Truth and Reconciliation Commission (TRC) Calls to Action; and the Missing and Murdered Indigenous Women and Girls (MMIWG) Calls for Justice. Islands Trust Council recognizes that the work of reconciliation is key to preserving and protecting this place for generations to come.

The Islands Trust Council adopted a Strategic Plan for the 2018-2022 term. Item six of the Strategic Plan is to: Undertake a review of Local Trust Committees and Bowen Islands Municipality foreshore policies and regulatory bylaws and develop model policy and regulatory bylaws for the protection of the foreshore and nearshore. This is a community planning project that is being advanced by Islands Trust Council Regional Planning Committee. The work will be consolidated into a template of standard bylaws that will be available for local trust committees and Bowen Island Municipality to use when developing policy and regulation along the shoreline.

Project Deliverables:

- Review all 21 existing Official Community Plans and 21 Land Use Bylaws in the Islands Trust Area on foreshore and nearshore policies and regulations, and a selection of other BC coastal jurisdictions and San Juan County. Selection should have relevance to the Trust Area with similar shorelines and upland uses.
- Discussion with Islands Trust Senior Intergovernmental Policy Advisor on consideration of First Nations interests in the options and recommendations.
- Review Provincial guidelines on mitigation and adaptation to sea level rise.
- Review Islands Trust Policy Statement for compliance of any proposed policies and regulations.

- Develop options and make recommendations on model official community plan policy and land use bylaw regulations to protect foreshore and nearshore,

HERITAGE AND CULTURAL CONSIDERATIONS

Islands Trust Initiatives:

The Islands Trust acknowledges the value of Indigenous traditional knowledge and perspectives as part of its decision-making processes.

Some of the recent Official Community Plans (OCP) reviews included references to Heritage and Archaeological Resources. To guide development the Saturna, South Pender and Thetis Island OCPs include the following objectives:

1. To encourage the identification, protection, and conservation of archaeological sites, buildings and sites associated with early settlement, and natural heritage features.
2. To protect archaeological sites from damage due to development, land alteration or human use.
3. To increase public awareness of the Island's heritage resources.
4. To recognize first nations past and current presence on Thetis Island, its foreshore, and surrounding waters, and to protect archaeological and other cultural heritage resources in cooperation with First Nations.

The Saturna Island OCP also includes a Heritage designation which identifies known heritage sites and areas of historical or cultural significance. The objective is to preserve places of historical or cultural significance from destruction. These places are to be identified and means for their preservation should be sought. Furthermore, the Saturna Island Local Trust Committee

may create a Heritage Commission to study and recommend sites, areas, landmarks, buildings, roads, trails, and other features of historical or cultural significance for inclusion together with sites that are on a registry in a Heritage designation under the Local Government Act and archeological sites protected under section 13 of the Heritage Conservation Act.

The Heritage Commission may:

- a) develop a Community Heritage Registry to identify island heritage buildings or other heritage and archaeological sites and features;
- b) develop heritage conservation areas for inclusion in the plan;
- c) require heritage alteration permits for heritage features identified in the Community Heritage Registry and heritage conservation areas;
- d) require heritage impact assessments for designated heritage features and archaeological sites protected under section 13 of the Heritage Conservation Act.;
- e) encourage heritage conservation covenants to protect heritage features; and
- f) encourage dedication or donation of heritage features for long-term protection.

Furthermore, the Saturna Island Local Trust Committee shall encourage and support creation of a community heritage museum on Saturna Island to maintain and display heritage artifacts originally located within the Area.

South Pender Island heritage cultural resources include the archaeological evidence of First Nations use and buildings

associated with the island's more recent settlement. There are registered archaeological sites on South Pender Island, mostly midden deposits, and these are afforded protection from disturbance under the provisions of the Heritage Conservation Act.

South Pender Island OCP Heritage Cultural Resources Objectives include: a) To increase awareness and appreciation of the island's ancient and recent cultural heritage.

b) To encourage and support measures that identify, inventory, and protect heritage cultural resources.

c) To recognize First Nations presence on South Pender Island and to protect archaeological and other cultural heritage resources in cooperation with First Nations.

Heritage Cultural Resources Policies:

a) The Local Trust Committee is to encourage the formation of a Community Heritage Commission to provide it and the community with advice and assistance regarding:

i) criteria for determining community heritage values, e.g., archeological evidence, historical significance, socio-cultural context, and architectural relevance;

ii) identification, inventory, and information compilation regarding sites, artifacts, structures, buildings, and persons of interest;

iii) measures to increase general awareness and appreciation of the island's cultural heritage; and

iv) methods of securing protection for the island's cultural heritage resources.

b) Roads or portions thereof identified as Scenic/Heritage Road are not to be altered without consultation,

c) All development applications shall be reviewed for the presence of known and recorded archaeological sites. Applicants should modify or revise proposed development plans to avoid archaeological site impacts as the best means of preserving archaeological resources. Alteration of a protected archaeological site requires a Provincial Heritage Alteration Permit prior to land altering activities.

d) The Local Trust Committee should not approve applications that would result in disturbance to an archaeological site unless there are unavoidable conflicts with significant archaeological sites or other known First Nations cultural sites. If this is the case, the LTC should require measures to manage the impacts.

e) Recognizing the inter-relationship of community interests and services between North and South Pender Islands, the Local Trust Committee is to encourage opportunities for mutually beneficial co-operative efforts relating to heritage cultural resources.

f) The Local Trust Committee may consider designation of a Heritage Conservation Area or adoption of Heritage Bylaws to protect heritage cultural resources.

The Salt Spring Island Official Community Plan includes a General Community Objective designed to "identify and protect important components of our island's heritage, including archaeological and First Nations cultural sites, whether they are reminders of past or present lifestyles." (*Source: SSI OCP Volume 1 Section A4 Objective 15*)

Provincial Archaeological Requirements:

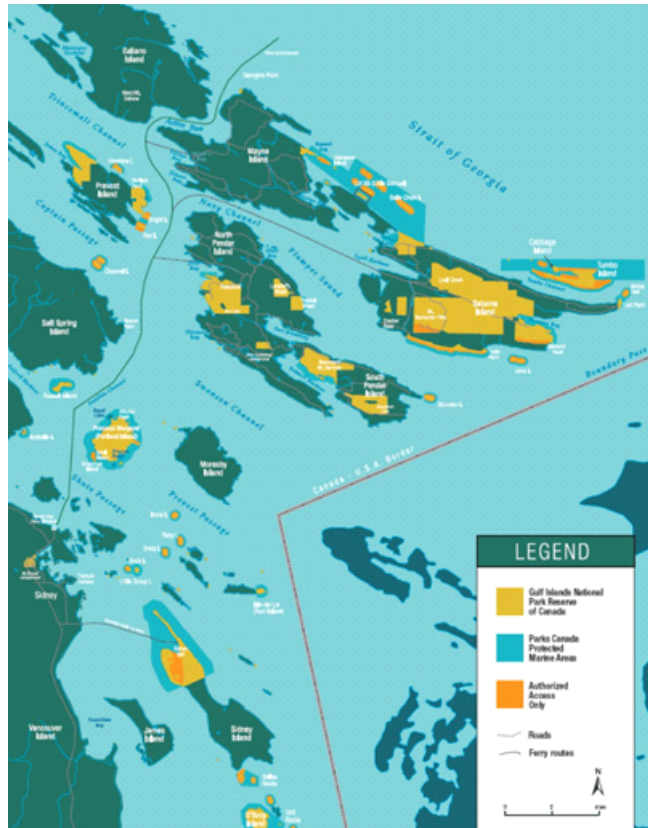
The protection of archaeological and heritage sites afforded under the Heritage Conservation Act is acknowledged by all the Local Trust Committees. The LTC recognizes that there are other buildings and landscapes of heritage value to Island residents and to the First Nations with a long and continuing history of life on the island. <http://www.islandstrust.bc.ca/trust-council/first-nations-reconciliation/>

This recognizes that marine shorelines were well used by First Nations people and as a result it is not uncommon for these areas to contain significant cultural sites and remnants. Any development activity along the marine shoreline must understand that there is a strong potential that these cultural remnants could exist on or below the surface. The BC Heritage Conservation Act governs the processes by which any development activity can occur in and around archeological sites and any indication of archeological artifacts requires adherence to this legislation.

It should be noted that information pertaining to archaeological sites is not available publicly, and Islands Trust planning staff are not authorized to share this information. Individual property owners can petition the BC Archaeology Branch for information regarding archaeological sites on their property, as the Archaeology Branch is responsible for maintaining and distributing archaeological information; however, the Archaeology Branch may not release data that could potentially damage archaeological sites. Property owners are encouraged to contact the Archaeology Branch for more information.

Federal Government Initiatives:

The Federal Government's Gulf Islands National Park Reserve (GINPR) comprises approximately 31 square kilometers of land and intertidal areas scattered over 15 of the southernmost Islands. The following map provides an overview of the national parks in the Gulf Islands.



(Source: [Camping - Gulf Islands National Park Reserve \(pc.gc.ca\)](http://pc.gc.ca))

Parks Canada is responsible for the management of about six square kilometers of marine area located offshore of waterfront portions and around islets of the national park reserve.

The southern Gulf Islands embody a rich human history stretching from thousands of years ago to the present. Coast Salish people have occupied the region since time immemorial and continue to live and use these islands.

These parklands help maintain a deep spiritual connection to the area and traditional use continues today. First Nations

archaeological sites as well as historical features from other groups provide tangible evidence of the history of the region's inhabitants who lived out their lives in this ecologically diverse landscape.

GINPR lies within the Dry Coastal Douglas-fir ecosystem—one of Canada's most at risk ecosystems. Although the national park reserve contains examples of many of the various components found within the Coastal Douglas-fir ecosystem, younger forest ecosystems make up the majority of the reserve, with significantly smaller amounts of mature forest and Garry Oak and associated ecosystems. To protect these ecosystems the Federal Government implemented the legislation to protect Species at Risk.

The Species at Risk Act (SARA) prohibits individuals and applies to species listed. All critical habitat in national parks and national historic sites must be legally protected within 180 days of being identified.

Recovery measures for species at risk will be integrated within the framework of Parks Canada's ongoing ecological integrity and management programs. The species-directed measures outlined in this plan will contribute to maintaining and improving ecological integrity of GINPR by improving the conservation status of native species and their habitat and maintaining biodiversity.

Provincial Initiatives

There are a number of Provincial recovery strategies and plans that complement the GINPR and provide guidance for the recovery of individual species, including strategic directions, recovery objectives, critical habitat, and threats. Multi agency cooperation links strategies and plans for more successful outcomes.

The measures presented in the action plan for GINPR could result in positive impacts on biodiversity and the value individuals place on preserving biodiversity (Federal, Provincial, Territorial Governments of Canada, 2014).

Intergovernmental collaboration and support will benefit park reserve visitors, local residents and Coast Salish groups. Voluntary stewardship opportunities will help build community knowledge which is an important consideration for species at risk management in GINPR. Some activities may create opportunities for local residents to become involved in the recovery of species at risk and for community partnerships to enhance recovery for Species at Risk. Benefits should be relatively evenly distributed across individuals in local communities. These include opportunities to learn about and take part in the recovery of culturally important species at risk, opportunities for integration of Coast Salish traditional knowledge into conservation issues in GINPR, and greater awareness of Coast Salish values and culture among local residents and visitors to the park reserve. Clam food harvesting brings communities together. This activity crosses cultural boundaries and is vital to BC coastal communities to have access to healthy Shell-Fish harvests.

Clam Garden Restoration

First Nations governance and inter-generational knowledge sharing helps to deepen knowledge. The Clam Garden Network is a group of First Nations, academics, researchers, and resource managers from coastal British Columbia, Washington State, and Alaska. Through collaborations across communities and disciplines participants explore the cultural and ecological

importance of traditional clam management practices and features to enhance regeneration of clam gardens.

Eelgrass Restoration

The Sea Change Society based in Brentwood Bay, Victoria, BC initiated coast-wide eelgrass mapping, restoration, and monitoring. Sea Change Society works with First Nations communities on Southern Vancouver Island including the Gulf Islands. Their strategy is to locate and restore sites that historically supported eelgrass. Sea Change transplants between 500 and 1000 eelgrass shoots into a test plot. If restoration is successful, the transplant areas are expanded with additional eelgrass shoots.

Source: [Home - SeaChange Marine Conservation Society \(seachangesociety.com\)](http://seachangesociety.com)



Source: Mapping in the Salish Sea (islandstrustconservancy.ca)

Local organizations such as Green Shores use ecological methods to protect shorelines from erosion and to address the impacts of climate change. The use of Eelgrass mapping as a planning tool is proving to be an effective method to consider erosion control.

GREEN SHORES

Green Shores is a program of the Stewardship Centre for British Columbia that promotes sustainable shoreline ecosystems for commercial, residential, institutional and park properties. It supports a broader vision for Canada's waterfront communities to increase capacity to minimize impacts of shoreline development and climate change while preserving or enhancing shoreline ecology and ecosystem services. Climate change is expected to impact the rate and nature of change across Canada's shorelines and affect its ecosystems. Green Shores incentivizes and provides a guideline for climate change adaptation and incorporates the most recent estimates of sea level rise to increase shoreline resilience for both ecosystems and property developments. The Green Shores guiding principles are to:

1. Preserve the integrity and connectivity of shoreline processes;
2. Maintain and enhance shoreline habitat diversity and function;
3. Minimize and reduce pollutants to the shoreline environment;
4. Reduce and reverse cumulative impacts to shoreline systems.

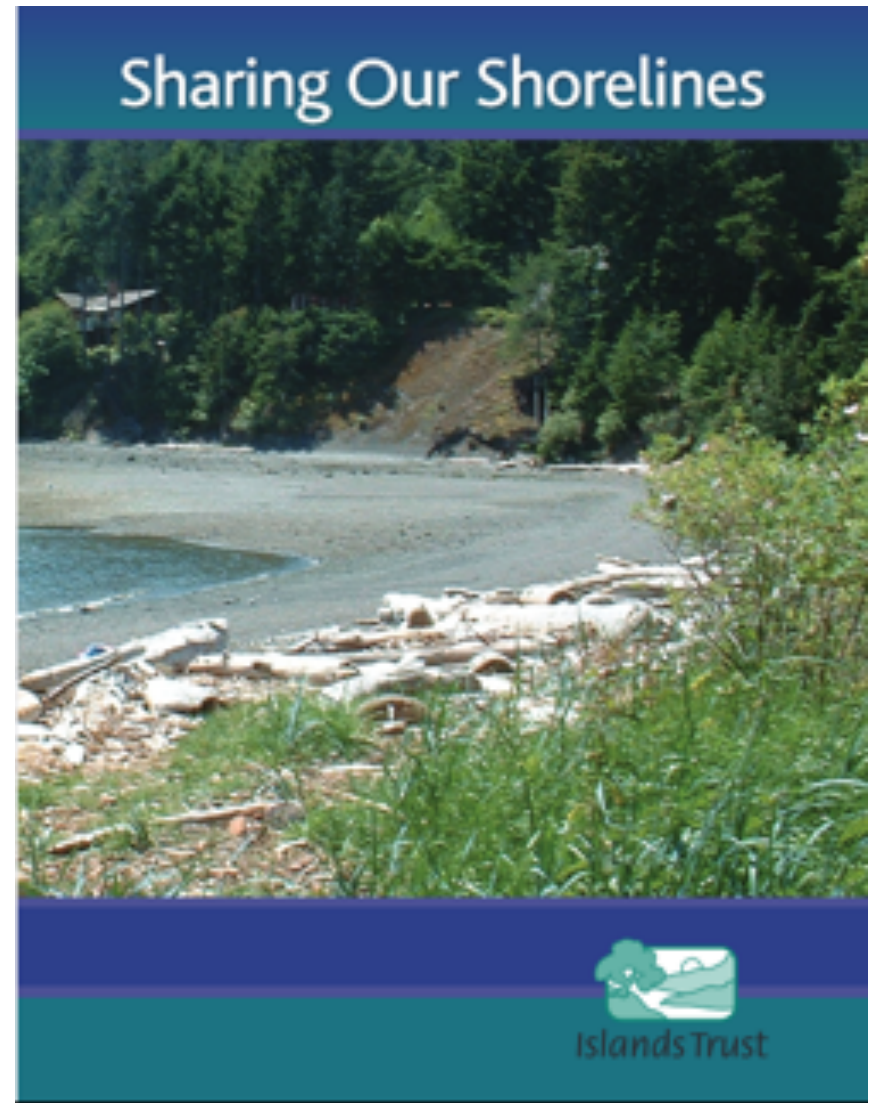
The Islands Trust promotes the Green Shores programs to the development community.

There are two programs –

Green Shores for Development provides a Credit and Ratings Guide for commercial, multi-family residential, subdivision, park, and institutional waterfront development.

Green Shores for Homes Program which is based on the four guiding principles:

1. Preserve or restore physical processes—the natural actions of water and sediment movement that maintain healthy shorelines.



2. Maintain or enhance habitat function and diversity along the shoreline.
3. Prevent or reduce pollutants entering the aquatic environment.
4. Avoid or reduce cumulative impacts—small individual effects that add up to large impacts on shoreline environments. (Source:

Green Shores for Homes - Stewardship Centre for BC (stewardshipcentrebc.ca) and Care for my Shoreline (islandstrust.bc.ca))

Examples of related policies include Salt Spring Island Official Community Plan B.9.2. shoreline conservation designation policy which states: shoreline conservation designation is encouraged to

help owners to implement best practices for shoreline development, such as green shores.

GUIDELINES ON MITIGATION AND ADAPTATION TO SEA LEVEL RISE

B.C.'s climate is changing, and climate scientists are projecting further changes over the next decades. Climate change mitigation and adaptation involves preparing for these changes and the impacts they will have on natural systems and communities. Communities are experiencing the impacts of climate change including more frequent and intense storms, increasing temperatures, drought, wildfire, sea level rise and flooding.

- Mitigations deal with how we can reduce the greenhouse gases that are the root cause of human caused climate changes.
- Adaptations are behavioral. Physical changes we make in our use of natural resources deal with the results of changing climate.

Mitigations

Mitigations in climate change can be undertaken by the Islands Trust by either reducing carbon dioxide emissions or increasing carbon sequestration (the amount of atmospheric carbon fixed into plants or other solid materials). Energy use is a key issue around reducing emissions. Maintaining forest cover is important for carbon sequestration. Several resources are available to help us with mitigation efforts such as:

- Plug in BC - <https://pluginbc.ca/>
- Climate Action to Go Kits -

<https://www.crd.bc.ca/education/climate-action/at-home/climate-action-to-go-kits>

- Efficiency BC - <https://betterhomesbc.ca/> to carbon sequestration by island, Here's a link <http://www.islandstrust.bc.ca/media/346674/cdf-toolkit-final-web.pdf>

The Islands Trust is committed to becoming a carbon neutral organization with no net increase in greenhouse gas emissions from its operations. Carbon neutrality has been achieved since 2012 through these steps:

- Performing an emissions inventory of our operations.
- Implementing an action plan to reduce emissions;
- Purchasing carbon offsets to counteract emissions that cannot be readily reduced.
- Improving transportation networks that are low carbon such as bike paths or other trail networks or installing EV stations.
- All Local Trust Committee Official Community Plans contain targets and policies related to Green House Gas (GHG) emission reduction.

Local Trust Committees have the following tools available for addressing climate change mitigation efforts:

- GHG Reduction Targets- Section 473 of the Local Government Act – required content for official community plans, inclusion of targets and policies with respect to reducing greenhouse gas emissions.
- Zoning Authority – Section 479 of the Local Government Act could cluster development, protect areas for conservation, limit extent of development, establish building size limits, and prohibit uses that contribute the most to GHG production.
- Development Permit Area to Promote Energy Conservation– Section 488(1)(h) of the Local Government Act can be used to reduce heating and cooling requirements through building siting, systems, and landscaping.
- Development Permit Area to Promote the Reduction of Greenhouse Gas Emissions - Section 488(1)(j) of the Local Government Act.
- Off-street Parking and Loading Regulations - Section 525 of the Local Government Act – establish parking requirements, electric vehicle and active transportation parking, surfacing and landscaping of parking areas.
- Impacts of climate change include sea level rise, possible saltwater intrusion into groundwater aquifer, warmer winters and summers, dryer summers, more intense storm events, and wildfire potential. Adaptations to changes resulting from climate warming include a wide variety of options. Such adaptations could be behavioural (e.g., Educating people to reduce food waste and drive less) or structural measures (e.g., Requiring water storage for household and fire suppression use).

The Province of B.C. has developed a Climate Change Secretariat to address climate change adaptations and has begun to produce numerous resources for communities to deal with climate change adaptations. These include:

- The site of climate change resources - <https://www2.gov.bc.ca/gov/content/environment/climatechang>

e

- The climate action toolkit - <https://www.toolkit.bc.ca/taking-action/community-wide> Local Trust Committees are being supported in understanding potential adaptations through staff reports.

A review of Islands Trust policies revealed a commitment to addressing climate change demonstrated by the islands of North Pender, South Pender, Galiano, Mayne and Saturna that are collaborating on a project to assess groundwater and establish water budgets.

Tools to support Local Trust Committees in understanding possible adaptations include:

- Zoning Authority - Section 479 of the Local Government Act require setback from the sea and water bodies, building location and size, appropriate uses, and density.
- Runoff Control Bylaw - Section 523 of the Local Government Act Regulations to address increased rain events.
- Development Permit Area to Protect Development from Hazardous Conditions – Section 488(1)(b) of the Local Government Act. Flood plain regulations along foreshore, rivers, and lakes. Tree and vegetation retention in areas prone to land slip.
- Development Permit Area to Promote Energy Conservation- Section 488(1)(h) of the Local Government Act. Siting, landscaping, and flooding.

Shoreline Management Plans: Oak Harbour. WA. U.S. Oak Harbour SMP

Shoreline Environment Designations

The basic intent of a shoreline environment designation is to preserve and enhance shoreline ecological functions and to encourage development that will enhance the present or desired future character of the shoreline as described in the

Comprehensive Plan, other adopted plans and the Shoreline Management Plan. To accomplish this, shoreline segments are given an environmental designation based on existing development patterns, biological capabilities and limitations, and community objectives. This Master Program establishes seven shoreline environments for the City of Oak Harbor. These shoreline environments shall include the shorelines of the City of Oak Harbor, including shorelands, surface waters, and bed lands. These environments are derived from and based on policy direction contained in the Oak Harbor Shoreline Inventory and Characterization Report, the Oak Harbor Comprehensive Plan, the Shoreline Management Act, and the Shoreline Master Program Guidelines. The seven Oak Harbor shoreline environment designations are: Maritime, Urban Mixed Use, Residential, Residential - Bluff Conservancy, Urban Public Facility, Conservancy, and Aquatic.



Storm surge flooding, Victoria. Photo: B.C. Ministry of Environment

The Summary List of Recommended Actions [Appendix A: Summary List of Recommended Actions Page 1 \(washington-apa.org\)](#) includes a number of options that LTC could use to outline how protection of marine ecology will be managed.

BC MARINE COASTAL SHORELINES JURISDICTION

Jurisdiction over coastal areas in B.C. is split among federal, provincial, and local governments, depending on the location along the coast and the relationship to the shore.

Within the Islands Trust Communities there are six types of shorelines that are shaped by complex processes that connect the land to the sea.



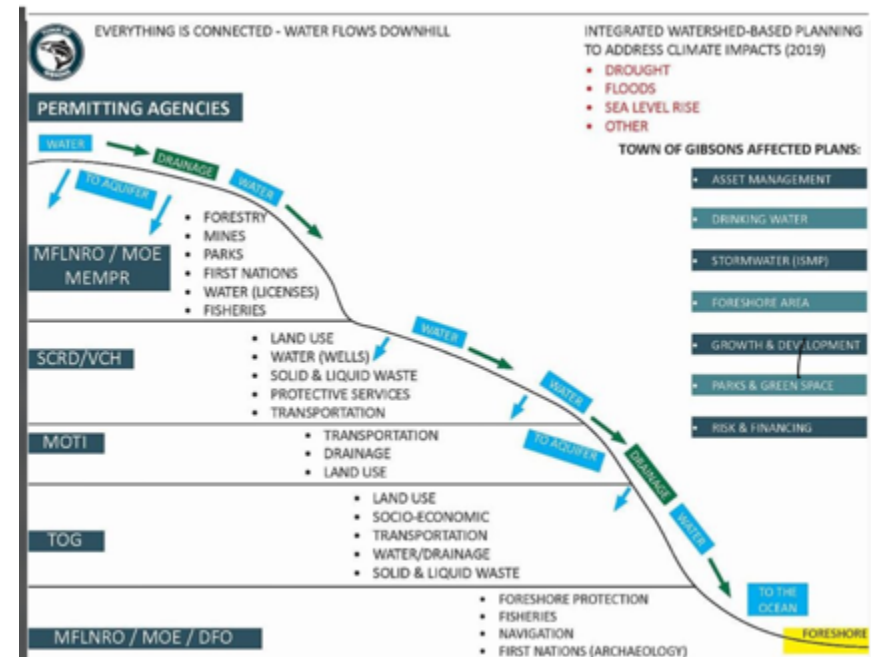
The land and surrounding environment protect the natural processes that form the shoreline. Marine and terrestrial habitat, as well as sensitive habitat and features exist, which are important to support a vibrant marine ecosystem.

The Islands Trust interactive mapping (MapIT) application is available online and provides more information about regulations. Although mapping is informative, it cannot replace observations made by walking the site and surrounding areas, particularly noticing seasonal and other changes over time.

It is important to note that while the following points refer to ownership and jurisdiction, all of B.C.'s coast is subject to aboriginal claims based on traditional use by First Nations and constitutional recognition of Aboriginal Title and Rights.

To highlight the multiple jurisdictions that regulate water the following water model in Figure 1 highlights how watershed planning can help to address climate impacts such as droughts, floods, and sea level rise.

Figure 1: Permitting Agencies | Integrated Watershed Model



Source: [2020-07-28 Gibson's Source to Sea Project.pdf \(civicweb.net\)](#)

The federal government has jurisdiction over offshore waters – from the low water mark out to 12 nautical miles along the outer coast. The Federal Department of Fisheries and Oceans (DFO) is responsible for fisheries protection provisions to prevent serious harm to commercial, recreational, and Aboriginal fisheries under the *Fisheries Act*, including shoreline “riparian” habitats, as well as for maintaining maritime safety through the Coast Guard. Transport Canada is responsible for preserving the public right of navigation under the *Navigation Protection Act* (2014) in waters listed in the schedule to that Act. The public right of navigation

will continue to be recognized in common law for navigable waters not listed in the Act. Port Authorities are also established under federal legislation to manage major harbours and facilities that are federal Crown lands, such as Victoria, Metro Vancouver, Port Alberni, Prince Rupert, and Nanaimo harbours.

On B.C.'s coast, the area between high tide and low tide (the foreshore area) is owned and controlled by the provincial government as well as the beds of inland seas such as the Strait of Georgia, Juan de Fuca Strait and Johnstone Strait. Foreshore area is never privately owned, though the Province may grant leases and licences for special uses of the foreshore – like gathering oysters or building docks and wharves. [Land Use - Private Moorage - Province of British Columbia \(gov.bc.ca\)](#)

The Land Tenure Branch (under the Ministry of Forests, Lands, Natural Resource Operations and Rural Development) administers lands in the foreshore area and issues permits, licences or leases for a wide range of uses – private and public moorage, wharves, marinas, aquaculture, and log storage to name a few. Consultation with First Nations is an important consideration with development around the coastal lands. It is part of land and resource decision-making. The following link outlines communications protocols with First Nations.

[Consulting with First Nations - Province of British Columbia \(gov.bc.ca\)](#)

The Province may also establish regional coastal zone or estuary management plans. Use of the foreshore is also subject to local

government land use regulations. *Source: Regulations Affecting BC Marine Coastal Shorelines Green Shores™ Background Report Shoreline Regulations and Permitting Processing BC 2014*

Professional Organizations Engineers have been involved in shoreline ecological restoration for some time. For example, in 2010 Jericho Beach enabled the opportunity to return the shoreline to its natural state and allowed for return of native plant habitat. Dangerous materials, such as creosote treated piles were removed.

The experience in undertaking flood plain restoration shows that a co-ordinated approach is essential and Community buy-in is required. An example of a multidisciplinary team has been the Shoreline Protection for the Town of Comox which commenced in 2011.

(Source: [Waters | Nanwakolas Council](#))

The Team included the K'omox First Nation, an archaeologist, a biologist/fisheries expert, a wave modelling/coastal engineering specialist, and a geotechnical engineer. The Foreshores dynamic nature made the Project extraordinarily complex. In addition, an archaeological site was located. *(Source: Innovation 2018 Engineers and Geoscientists BC). In 2016, the Association of Professional Engineers of BC (APEGBC) released a position paper entitled Human-Induced Climate Change which was followed in 2017 by professional practice guidelines, Flood Mapping in BC.*



1. Low Bank Beach of Jericho Beach, Vancouver, BC



Pictures 3 and 4 depict Low Bank Beaches in Comox, B.C. Rocks and logs are used as a natural approach to slow tidal flows and to prevent erosion.



2. Beach Images: Stanley Park, Vancouver, BC
Rocks placed to slow tidal action



LEGISLATIVE FRAMEWORK FOR SHORELINE PROTECTION STRATEGIES

An overarching goal of government regulation is to strengthen opportunities for protection of archaeological resources, sensitive ecosystems, shoreline integrity and function, and public access to marine ecosystems.

The Islands Trust has policies that give local island trust committees the ability to amend Official Community plans and Land Use bylaws. Policies to manage development on shorelines through its preserve and protect mandate, is expressed through

the Islands Trust Policy Statement that reflects the values expressed by Island Trust communities.

1. Islands Trust Policy Statement

The Islands Trust policy statement guides land use planning and development through the preserve and protect mandate of the islands trust. It includes goals and policies that reflect the values and concerns for the future of the trust area. Local trust committee official community plans and land use bylaws must comply with the policy statement. There are several policies which speak broadly for shoreline protection, and more specifically for the implementation, regulation and use of foreshore development for policies in the Islands Trust. These are listed in Appendix 1: Policies in the Islands Trust. Note that the Islands Trust Mandate in Section 3.4.4 requires that Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas protection of sensitive marine areas and in Section 3.4.5 requires that Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.

2. Official Community Plans

Official Community Plans allow local governments to set objectives and policies to regulate future growth and development in communities. The OCP divides the communities into residential, commercial, agricultural, institutional, industrial, and other land uses. The OCP outlines when these uses are needed and provides policy direction on how, when and where each land use will be located. Designated uses can be outlined on OCP maps.

The Official Community Plans within the Islands Trust area have included the Objectives and Mandate in a variety of ways. The following communities demonstrate how they have amended their OCP's to address shoreline protection.

The Saturna Island Official Community Plan highlights the legality of the Islands Trust Object. Over the years the provincial legislature has reaffirmed the Islands Trust object.

"The object of the trust is to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia." (Sec.3 Islands Trust Act).

This legislated objective defines the purpose of providing authority to the Islands Trust for land use regulation. The challenge is how to employ the available planning powers of the Local Government Act to preserve, protect, and effectively maintain the rural nature, health, natural environment, and vitality of the Saturna Island community.

The strength and obligation of the Trust mandate has been more clearly defined by the Court in the Galiano Island vs. McMillan Bloedel case. The BC Court of Appeal found that when a Local Trust Committee exercises its powers "to preserve and protect" an amenity, it is not acting in bad faith, but rather carrying out its assigned duty under the Islands Trust Act. Official Community Plans and Land Use Bylaws can be explicit and either more restrictive or permissive when furthering the objectives than would be acceptable in other local governments in British Columbia. The

Court's decision affirmed the powers and obligation of each Local Trust Committee to further the object of the Islands Trust Act.

The Galiano Island Official Community Plan elaborates on Principles.

- a. This Plan advances the Object of the Islands Trust to "preserve and protect the Trust area and its unique amenities and environment" and supports the limitations the Object presents for the type and scale of development in the Galiano Island Local Trust Area.
- b. Several First Nations have traditional ties and territories on Galiano. The community supports continued and strengthened collaboration and cooperation with First Nations in planning land and resource management and protection of cultural heritage and sites.

One method of regulation is via Development Permits as established in Section 919.1(1)(a) of the Local Government Act for the protection of the natural environment, its ecosystems and biological diversity. An example is Ballenas Winchelsea Official Community Plan, which elaborates on the justification of a Shoreline Development Permit area. The Plan notes that the Object of the Islands Trust to "Preserve and protect the Trust Area and its unique amenities and environment of the Trust Area for the benefit of the residents of the Trust Area, and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the government of British Columbia." Provincial legislation in Section 877(1)(d) of the Local Government Act says that an official community plan must include statements and map designations for the area covered by the Plan respecting restrictions on the use of land that is subject to hazardous conditions, or that is environmentally sensitive to development. It is policy of the Islands Trust Council that protection must be given to the natural

processes, habitats, and species of the Trust Area, including those of open coastal grasslands, the vegetation of dry rocky areas, estuaries, tidal flats, saltwater marshes, drift sectors, lagoons, kelp and eel grass beds and that development activity, buildings, or structures should not result in a loss of significant marine or coastal habitat, or interfere with natural coastal processes. It is also policy of the Islands Trust Council that local trust committees shall in their Official Community Plans and regulatory bylaws, address: the protection of sensitive coastal areas; and the planning for and regulation of development in coastal regions to protect natural coastal processes.

Land Use Bylaws also regulate Shoreline uses. North Pender Island, for example has 1 Ecological Zone and 6 Water Zones.

Developments to ensure they meet the policies and objectives of the Official Community Plan (OCP) as well as the regulations of the Zoning Bylaw. The OCP specifies areas that fall under a Development Permit Area (DPA).

Local governments may designate areas of land as development permit areas to be used for one or more purposes. The eligible purposes of a development permit area are:

- Protection of:
 - The natural environment, its ecosystems and biological diversity
 - Development from hazardous conditions. Protection of development from wildfire, land slide, flooding, erosion, and other hazards
 - Farming
- Revitalization of an area in which a commercial use is permitted
- Establishment of objectives for the form and character of:

- Intensive residential development
- Commercial, industrial, or multi-family residential development
- Development in a resort region
- Promotion of:
 - Energy conservation
 - Water conservation
 - Reduction of greenhouse gas emissions

Designating a Development Permit Area

Local governments may designate a development permit area in an official community plan. The plan must describe the special conditions or objectives that justify the designation.

The local government must also specify guidelines for how proposed development in that area can address the special conditions or objectives. These guidelines may be specified by zoning bylaw.

In the Islands Trust many locations include Development Permit Areas within Official Community Plans to implement Islands Trust Policy Statements to Preserve and Protect mandate.

The promote high quality developments in terms of design, performance, and environmental protection. Most lands within jurisdictions are subject to the provisions of one or more development permit areas. Therefore, prior to commencing subdivision, construction, or the clearing or alteration of land, a development permit may be required for one or more of the following purposes:

The Island Trust Shoreline DPA (DP-3) is an example of a policy that has designated an area for which development approval

information may be required as authorized by Section 484 of the Local Government Act.

Examples of Coastal Development Permit Guidelines are included:

1. northcowichan.ca/assets/MarineWaterfront.pdf
(North Cowichan Development Permit)
2. foreshore-development-permit-area.pdf
(Campbell River)

Development Permit Areas can help local government achieve development objectives by providing guidelines on the design, appearance, and performance of a development. A development permit cannot vary the use or density of land, or a flood plain specification. The only exception is where the permit is essential to health, safety, and protection of development from hazardous conditions.

Keats Island community in conjunction with the Island Trust planners conducted a Shoreline Review Project. This action was taken in response to community concerns related to the general increase in development on Keats, and more specifically to the increase in dock development. The attached report outlines a strategy that encompasses the findings from the consultation and a review of Land Use Policies in the Islands Trust.
[gm-ltc 2020-06-15_keats-shoreline_rpt-discussion-paper-working-group.pdf](http://gm-ltc-2020-06-15_keats-shoreline_rpt-discussion-paper-working-group.pdf) (islandstrust.bc.ca)

Zoning Bylaws and Setbacks

One area of inconsistency is between zoning Bylaws and specifically setback requirements. Zoning bylaws regulate Marine Riparian setbacks, and they may differ across local governments and regional districts.

Most jurisdictions now require setbacks on lands within 15 metres upland of the highest high tide mark of the ocean, or the top of bank, whichever is the larger. This is consistent with the Provincial Guidelines as part of its strategy to address climate change impacts. When development is proposed within a specified distance from the high tide mark of the ocean, a report is required from a qualified environmental professional, to eliminate or mitigate impacts of the development on all parcels with marine shorelines.

Often a measure that may stabilize one site can lead to instability on other sites in the area, as wave and tidal actions combined with longshore drift energy are redirected in response to human interventions. To minimize the degree to which this may happen it is preferred that natural measures are deployed to protect marine shores wherever possible. Section 524 of the Local Government Act enables local governments to develop flood hazard area bylaws. When adopting these bylaws, local governments are required to consider the Province's "Flood Hazard Area Land Use Management Guidelines" (the Provincial Guidelines).

Amended in 2018, the Provincial Guidelines incorporate sea level rise (SLR) into land use planning and future development and require that local governments adjust setbacks according to the Year 2100 Global SLR prediction of 1.0 metre, with adjustments made for regional uplift and subsidence. Using the Year 2100 SLR prediction of 1.0 metre as the minimum elevation, local governments can regulate flood construction levels (FCL) of buildings and structures, including docks.

The Provincial Guidelines requires a setback of 15 metres from the future estimated natural boundary (NB) of the sea at Year 2100, or landward of the location where the natural ground elevation contour is equivalent to the Year 2100. It is noted that where sea

frontage is protected from natural bedrock formation, setback requirements may be adjusted as recommended by a qualified Professional Engineer experienced in coastal engineering. Conversely, the recommended setback may be increased based on the site-specific conditions, for example in low-lying areas or areas of known erosion hazard. The Islands Trust is no exception as can be seen from the following table.

The Capital Region District (CRD) Flood Inundation Project 2020 provides detailed information for some of the more southern Islands within the Islands Trust regarding future hazards associated with coastal flooding

related to sea level rise and tsunamis. The following map shows information for Ganges and adjacent area on Salt Spring Island. (Source: Task 2 Sea Level Rise Modelling and Mapping Report Map 2)

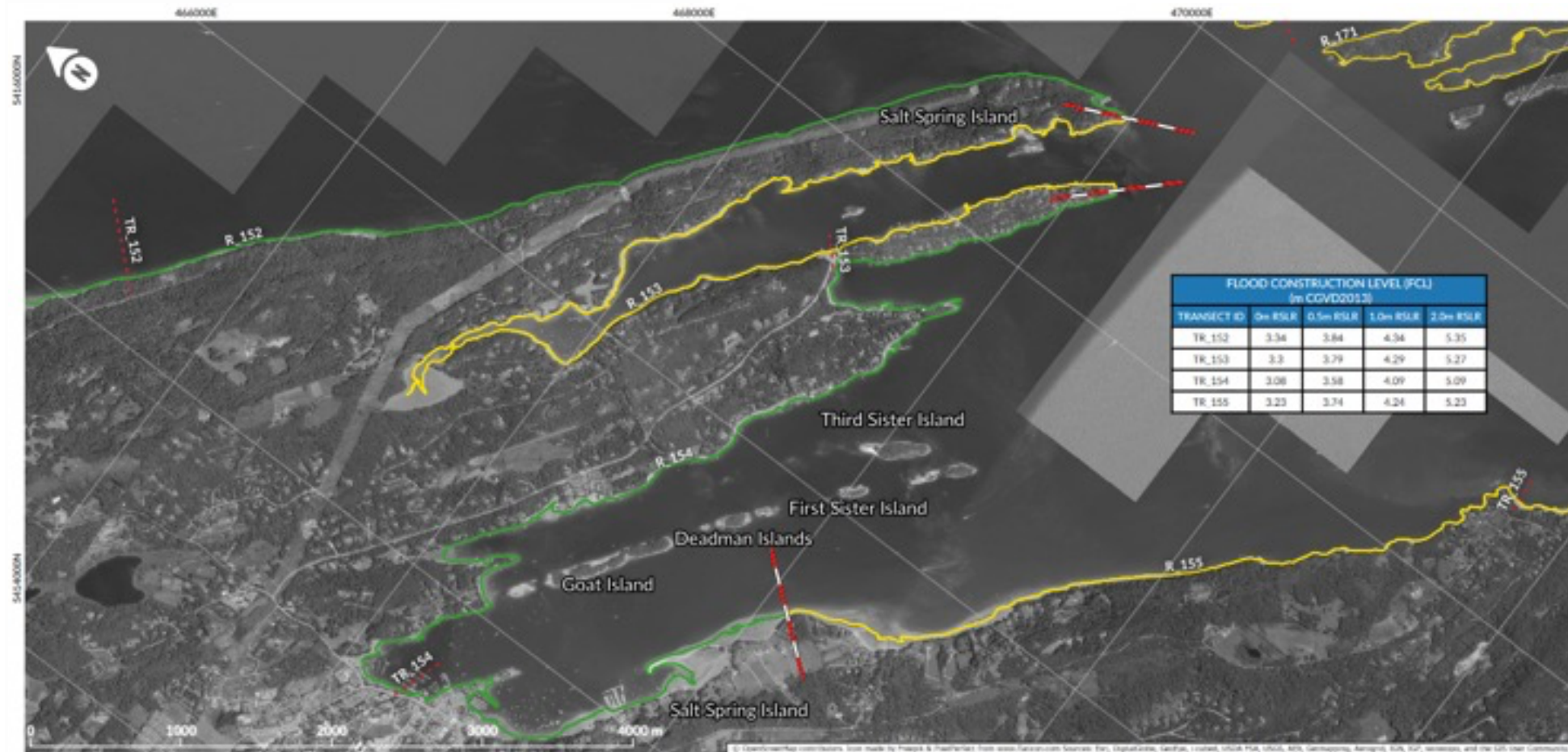


Table 1 Summary of Local Trust Committee (LTC) regulations.

Shoreline Regulation Overview Table	Private Docks permitted (zone specific)	Setback from Natural Boundary of the Sea	Permits Structures in Setback from NB	Exemptions to Setback from NB	Shoreline (or Marine) Development Permit Area
Ballenas-Winchelsea	✓	15 m	-	✓	✓
Bowyer and Passage Islands (Gambier LTA)	✓	7.6 m	Property specific min. setbacks based on historical buildings and structures	✓	-
Denman	✓	15 m	✓	-	-
Gabriola	✓	15 m**	✓	-	✓
Galiano	✓	7.5 m	✓	-	✓
Gambier	✓	15 m	✓	✓	✓
Gambier Associated Islands	✓	7.5 m	✓	-	-
Hornby	-	15 m	-	✓	-
Lasqueti	✓*	15 m**	✓	-	-
Mayne	✓	7.5 m	✓	✓	-
North Pender	✓	15 m	✓	✓	✓
North Pender Associated Islands	✓	15 m	-	-	✓
Salt Spring	✓	15 m**	✓	✓ (zone specific)	✓
Saturna	✓	7.6 m	✓	-	-
South Pender	✓	7.6 m	✓	✓	-
Thetis	✓	7.6 m	✓	✓	-
Thetis Associated Islands	✓	10 m	✓	-	-

*Docks permitted on specific lots only. Rezoning required for additional docks.

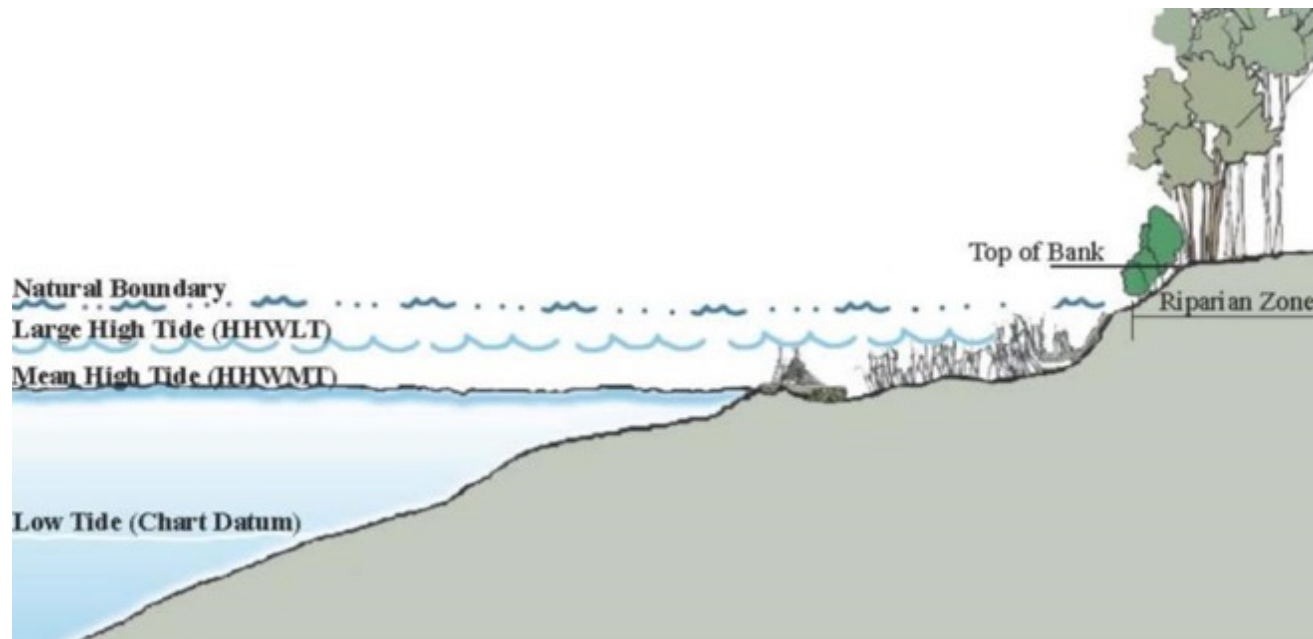
**May be reduced with engineer certification.

Natural Boundary Considerations

One of the key components of Development Permit requirements is establishing setback requirements. With regards to Shoreline protection, the establishment of the Natural Boundary is a key component as it impacts setback distances from hightide.

The 2010 BC Supreme Court case *Lawrence v. British Columbia* (Attorney General) 2010 accepted of the method of determining the natural boundary as shown in the figure below.

The Natural Boundary means the visible high-water mark of the sea, a lake, a stream, or other body of water, where the presence and action of water are so common and usual and so long continued in all ordinary years as to mark upon the soil or rock of the bed of the body of water a character distinct from that of the ban. (The definition is defined in the BC Land Act <https://www.bclaws.gov.bc.ca/civix/document/id/91consol15/91consol15/79214#section14.>) and in the case of a lot having a surveyed high-water mark means the high-water mark. LUB should provide the following regulations for siting of buildings and structures in relation to the natural boundary of the sea:



Source: Greenshores Credits and Ratings Guide

The following features may project into a required setback area:
o steps, eaves gutters, cornices, sills, chimneys, or similar features, provided they do not project more than 1.0 metre

(3 feet) into the required setback area or 0.5 metres (1.5 feet) in the case of a side yard setback area;

- o balconies, decks, and sunshades, provided that they do not project more than 1.0 metre (3 feet) into the required setback area;
- o retaining walls may be located in any required setback area except the setback from the natural boundary of the sea.

Marine/Coastal Policies

- a. Develop and implement a Marine Action Strategy to identify, prioritize and resource local actions for protecting and maximizing waterfront and marine resources as important assets providing valuable ecological services, and social, cultural, and economic benefits.
- b. Continue to build partnerships and collaborate to monitor and protect waterfront and marine areas. Establish a Marine Working Group to coordinate and align efforts of all coastal stakeholders and agencies with jurisdictional authority and interests in the local marine environment.

Objectives

- a. Recognize, value, and promote ecosystem services provided by coastal and marine environments.
- b. Protect, restore, and enhance the ecological features and functions of coastal and near shore areas.
- c. The Islands Trust should continue to work collectively across each of the Gulf Islands to help sustain a healthy marine environment.
- d. Play a proactive leadership role and work with First Nations and senior governments to monitor and address marine issues such as unauthorized mooring, derelict vessels, and ship and non-point source pollution of the coastal environment.
- e. Continue to participate in initiatives and forums to enhance dialogue and collective action among First Nations, local and regional governments, marine stakeholders, and community

organizations to support the health and sustainability of the Gulf Islands.

f. Support participation and benchmarking activities in the provincially led cumulative impacts project for the Gulf Islands. Work with other agencies and groups to inventory and more closely to define environmentally sensitive areas in the marine environment.

g. Plan and design waterfront sites to minimize impacts on the marine environment, in accordance with best management practices, all federal and provincial regulations. Refer to Province's Develop with Care resource, and Island Trust's development permit guidelines. The purpose of a Development Permit Area (DPA) guidelines is to designate for the protection of the natural environment, its ecosystems and biodiversity. DPA requires applicants to provide information on the anticipated impact of development activities on the natural environment, pursuant to the Development Approvals Information requirements outlined in sec 30 of the Local Government Act.

h. Infill of marine areas to create additional upland developable area beyond the natural boundary is strongly discouraged. Where required for contaminated sites remediation and coastal flood protection, the location and shoreline alignment of structures should wherever possible follow High Water to maintain marine channel area. Wherever possible, apply 'Green Shores' principles in their planning and design for shoreline restorations projects.

i. Ensure foreshore development is undertaken in a manner that secures and enhances public shoreline access without adversely affecting aquatic habitat. Access points should be practical and universally accessible for public use and enjoyment.

j. Support opportunities for coordinated project review with senior governments and First Nations for projects proposed within the marine environment. It is strongly encouraged to contact the Archaeological Branch to prior to development along shorelines

to determine if there could be the presence of culturally significant artifacts.

For Shore line development made to the BC Ministry of Forests, Lands, Natural Resource Operations and Rural Development for private docks and floats, these applications will only be accepted by the Islands Trust if the following criteria are met: Adherence to the Integrated Land Management Bureau (ILMB) policies regarding public notification e.g. Local First Nations and is in keeping with best management practises, planning and design standards, e.g. shared access and dock usage whenever possible.

Environmentally Sensitive Areas

a. Marine Shoreline guidelines apply to environmentally sensitive areas. These areas are mapped and included in each of the Islands Trust OCPs, and accompanying Development Permit Applications. Shoreline developments within the Islands Trust may lie within multiple development permit areas. It is advised Property owners work with a Qualified Environment Professional to meet the requirements within each DPA. In the case of guidelines for areas designated for the protection of development from hazardous conditions, development proposals which include marine or riparian areas must also be submitted to Fisheries and Oceans (Canada) for authorization and should be subject to any conditions or limitations determined necessary or appropriate by Fisheries and Oceans (Canada).

Objectives and Justification

The objectives of Development Permit Areas are to:

- i. protect areas of highest biodiversity and ecological sensitivity within the Gulf Islands including ground and surface water, shorelines, forests, wildlife habitat features and rare and endangered ecosystems and species.

- ii. ensure that ecosystem protection and enhancement values are elevated and prioritized, and to specify where and how lands are developed in and around environmentally sensitive areas.

- iii. conserve and steward the natural environment, ecosystems, and biodiversity within the community.

- iv. support the movement of various species by connecting ecosystems through undisturbed open space corridors.

- vi. restore, enhance and protect marine ecosystems; Shoreline ecosystems such as stream corridors, slopes, and nearshore beaches to preserve fish habitat, improve water quality for shellfish harvests.

- vii. minimize and mitigate the environmental and visual impacts of development.

- viii. accommodate recreational and complementary land uses, where appropriate that contribute to the above objectives.

- ix. restore and enhance sites previously degraded or denuded of vegetation.

- x. Discourage any new development in within designated ecological reserves.

b. The Islands Trust has some mapping for designated Environmental Review Areas (ERAs) that are based on Sensitive Ecosystem Mapping completed to provincial standards that describe and classify the ecological diversity, type, and extent of vulnerable or rare ecosystem elements in a given area. Islands Trust Conservancy - Sensitive Ecosystems and Land Use Planning. The terrestrial ecosystems can be viewed using the Islands Trust interact mapping application MapIT and PDF versions of the maps can be downloaded.

These areas have rare or restricted distribution, high biodiversity, and habitat values, and are sensitive to disturbance and human

impacts. Within the Gulf Islands, sensitive ecosystems are not limited to Shorelines but include old forest, mature forest, woodlands, riparian areas, wetlands, and sparsely vegetated, estuarine, intertidal, fresh water and ocean areas.

c. Areas of recent disturbance or modification are not considered sensitive, and include urban and rural residential areas, industrial sites, golf course (excluding natural areas within some courses), gravel pits, roads, hydro corridors, dikes, farmland, and recently logged areas. The Gulf Islands has designated some areas as environmentally sensitive and there are several Environmental Review Areas (ERAs) based on Sensitive Ecosystem Mapping completed to Provincial standards that describe and classify the ecological diversity, type, and extent of vulnerable or rare ecosystem elements in a given area.

The Islands Trust has Sensitive Ecosystem Mapping available on the Islands Trust Geographic Information System to identify Environmentally Sensitive Area (ESA) rankings (Medium or High) based on an ecosystem's sensitivity to disturbance, ecological importance, and provincial rarity according to its BC Conservation Data Centre status. Ecosystems with high percent of recent disturbance are ranked as Low (not highlighted on ESA mapping).

ERAs may not represent all sensitive ecosystems present within a given area or site. The Islands Trust relies on the most updated information, acquired through site-level bio-inventories and assessments as required for Development Permits. As new information becomes available, and buffer areas are determined by Qualified Environmental Professionals (QEPs) to maintain ESAs,

OCP's and Development Permit areas can be amended along with Geographic Information System ESA map layers, which should be referenced for detailed ESA information over time.

d. Development within and adjacent to these sensitive ecosystem areas will be reviewed against and subject to OCP environmental objectives and policies that seek to ensure ecologically sensitive development. Development should be carried out according to permits issued pursuant to these guidelines.

Conclusion:

This discussion paper is intended to identify and document existing policies and regulations related to updating LUB and policies for shoreline in LTC's and to make recommendations as to potential updates to these policies and regulations.

The options presented in this report outline initiatives underway in other communities and jurisdictions. One of the major issues impacting changes in regulations is the impacts of Climate Change on coastal communities specifically sea level rise. The goal of the Islands Trust is to support policies to improve Shoreline Protection and to include Indigenous perspectives in project planning. The report represents some potential regulations that could be enacted that response to specific concerns from the community. It is recommended that Climate Change and Indigenous reconciliation be used as the catalyst to review and update LUB's specifically to introduce Shoreline Development Permit Areas as this regulatory tool as this has the best potential for impacting the areas of concern.

RECOMMENDATIONS

First Nations

1. To recognize areas of cultural significance the Local Trust Committee could consider designation of a Heritage Conservation Areas or adopt Heritage Bylaws to protect heritage cultural resources similar the projects completed on South Pender and Saturna.
2. Through government-to-government meetings, Local Trust Committee may wish to commit to meeting regularly with Indigenous First Nations stakeholders on land use planning issues. Also, the internal referral/advisory role between Islands Trust planning staff and the Intergovernmental Liaison appears to still be in a growth phase as new processes work towards collaboration on meeting the mandate of the Islands Trust.
3. The LTC Policy Statement should be revised to incorporate UNDRIP and DRIPA & the Islands Trust Reconciliation Declaration. The goal is to support more thorough Islands Trust project work to improve Shoreline Protection from an Indigenous perspective.
4. Based on feedback from Islands Trust staff it was mentioned that the Islands Trust Staff Report template could be updated to support a requirement to consult based on the intent of UNDRIP and DRIPA and the Islands Trust Reconciliation Declaration. This would give clear direction for greater consistency in approaches toward reconciling Indigenous Rights. In addition, to the Provincial public notification process the Islands Trust could develop a referral letter and provided to property owners regarding shoreline development for docks.

5. Consider working with First Nations and the Department of Fisheries and Oceans (DFO) to establish conservation areas to protect shellfish aquaculture, traditional shellfish harvesting, water quality and the protection of the marine environment. Due to the depuration areas such as the Sooke Basin and the closures of fisheries and shellfish harvesting (mandated by the Department of Fisheries and Oceans, DFO). Applications are no longer accepted for private moorage structures. Private moorage structures are not compatible with Designated Use Areas.

Land Use Planning Documents

6. Consider the establishment of Development Permit Areas (DPA) in Official Community Plans pursuant to the Local Government Act Section 488(1)(a) for the protection of the natural environment, its ecosystems and shoreline biological diversity; and Section 488(1)(b) for the protection of development from hazardous conditions. Consider updating Land Use Bylaws to clarify under what circumstances a development permit is triggered. Also revise Zoning Bylaws in regard to regulations to setbacks on Uplands from Shorelines.
7. DP requirements need to be consistent with the intent of Shoreline/Floodplain and the Riparian areas policies. This is required to balance development with protection of the environment. Mayne Island Official Community Plan includes a section on coastal waters and foreshore in which it states the local trust committee may: a) amend its bylaws to allow erosion protection structures to be

regulated through development permits; and b) consider on a case-by-case basis.

8. Shoreline Development Permit Area could be added to Land Use Bylaws. Islands Trust Staff have suggested that all surrounding islets also be included in the DP area.
9. Consider Implementation of a Shoreline Bylaw to strengthen the Land Use Bylaws and Official Community Plans. Develop LUB using shoreline mapping for all islands and highlight unique characteristics of the shoreline within the six beach types. For example, many Islands have flat beaches, cliff bluffs, rock, clay or marsh till. This will help to focus on more site-specific regulations and better protect marine ecology and support salmon spawning grounds, eel grass, and shellfish fishery. Problem areas for habitat protection and erosion of cliffs affecting setbacks should be identified as this could be a precursor to development of bylaws. Exemptions may be necessary if a specific issue does not exist. Shoreline mapping is available on MapIT and can be leveraged for shoreline protective bylaws.

Definitions:

10. Have a consistent definition for “shoreline” and “development” on the shoreline in all Islands Trust documents in accordance with the BC Land Act definition.

Setbacks are the primary tool for regulating where buildings locate. Need to define consistent setbacks for marine shoreline s. Implement consistent requirements for measuring Natural Boundary and have surveyor confirm exact High-Water Mark. Need to define “natural boundary” and “natural grade” in relation to “shoreline” and Sea Level Rise (SLR). The table

highlights LUB setback requirements from the natural boundary of the sea for buildings and structures and requires amendments to be consistent with the Provincial Guideline of 15metres.

Rather than amending the LUB to update the setback measurement, one option would be to amend the LUB to refer to the flood protection bylaw for setbacks from the natural boundary of the sea. This would align with the existing Provincial Guidelines, and with any future amendments to the setbacks to the sea as required by the Province.

Climate Change

11. Washington State requires all local governments to develop Shoreline Management Plans: Oak Harbour. WA. U.S. Appendix A: Summary List of Recommended Actions Page 1 (washington-apa.org) is an example we have included. This may be an option for LTC. to outline how protection of marine ecology will be managed and provide Climate Change Policy Recommendations: Undertake study of sea-level rise, and floodplain regulations. The Province of BC has provided Coastal floodplain maps to identify coastal flood hazards, such as sea level rise, and to provide guidance to coastal communities in land use planning, bylaw development and sea level rise adaptation strategies. [Microsoft Word - TEXT-20110627.doc \(gov.bc.ca\)](#) These maps will help to shape future policies with regards Flood Construction Levels and Sea Level Rise.
12. The Islands Trust mapping for the 21 Islands, supplemented by BC and CRD Mapping continue to be used to provide an evidence-based approach for identification and appraisal of options for future bylaws

that deal with Sea Level Rise Management management for in the Islands Trust communities. In particular, the analysis provides the types of land use, key assets, services and indicative economic values that exist in areas at inundation risk and this evidence will help to develop the objectives for and assess the impacts of different management options.

13. The Islands Trust should continue to conduct assessments of areas where Sea Level Rise risks exist and communicate these risks to Island Trust Committees and the community. The methods and mapping data sets used should be standardized so it can be applied to all Trust Communities. It is essential to consider the value in assessing inundation risk that could occur from flooding of drainage and other water systems. Data generated from this project could be used to create maps to show where such non-connected low-lying areas are located.

Best Practices – Islands Trust

16. There has been considerable work undertaken by Island planners and with the knowledge, and thorough

research and policy analysis of work it makes the most sense to utilize this project work for proposed Development Permit Areas. There are valuable best practices and details included in the shoreline projects for Keats Island and Lasqueti which is applicable to other islands. While there are differences for each of the islands, therefore these differences such as size, transportation needs, the purpose and function of docks will vary. [gm-ltc_2020-06-15_keats-shoreline_rpt-discussion-paper-working-group.pdf](#) (islandstrust.bc.ca)

17. Recognizing the organizational structure and directives guided by the LTCs, perhaps it is worthwhile conducting a feasibility study to determine which LTCs are interested in building off of the extensive work carried out over a 2+ year span of time for the Lasqueti Shoreline Protection project and again recently for the Keats Shoreline Protection project?

APPENDICES

REGULATIONS – ISLANDS TRUST AND OTHER EXAMPLES

Across the Islands Trust, each Local Trust Area has adopted individual Official Community Plans (OCP) and Land Use (Zoning) bylaws.

Bowen Island Municipality

Marine Resources/Foreshore: The sea provides visual, auditory, recreational, and other tangible and intangible values that can be experienced from island and off island locations, as well as providing habitat for marine life and birds. Pollution of the foreshore can preclude its use by people and by all or some forms of wildlife. Excessive building and tree clearing on the shoreline can destroy fragile plant communities and the views for residents and the boating public. Objectives are to protect the natural and scenic values of the coastline that provide the rural maritime atmosphere of the island; to protect coastline habitat areas for marine life and to identify, protect and preserve sensitive coastal vegetation. The Land Use Bylaw will set out detailed provisions related to siting, setbacks, size, configuration, width, materials, and projections for private moorage. The importance of the marine environment as a recreational resource for island residents and visitors will be affirmed through the continued maintenance of existing beach and shoreline access and establishment of new beach and shoreline access where such access does not detrimentally affect the marine environment and associated wildlife.

Denman Island Local Trust Area

A guiding objective is to protect the foreshore, coastal waters, and native marine life and to retain sufficient natural habitat to ensure the preservation of native species...The foreshore (or intertidal) area is defined as the land located between highest and lowest tides.

Gabriola Island Local Trust Area

The objectives include to manage coastal marine resources in keeping with the Islands Trust preserve and protect mandate; To preserve and protect unique, rare, or representative marine plant and animal communities in their natural habitats; To protect the natural and scenic values of the coastline; To provide opportunities for the commercial uses of the foreshore and coastal waters; To recognize the importance of the existing log storage areas in the; To promote the recreational and commercial use of the area's aquaculture resources; and To encourage the sharing of docks and wharves. Within Development Permit Areas there are policies regarding no alteration or disturbance causing a negative impact to the foreshore habitat or erosion in upland areas.

Mudge Island

Since there is no ferry service, large or bulky items such as vehicles and building materials are transported by boat or barge to and from the island. Barges use either Moonshine Cove's beach or the deeper foreshore nearby at a public access point. Davidson Bay is also used for launching and retrieving boats. Objectives are to minimize disturbance and pollution of the foreshore and the surrounding waters and conflicts between marine and foreshore users and uses.

DeCourcy Island

The Official Community Plan notes that the foreshore and the ocean are fragile and valuable components of human and marine life habitat. Interference with the natural systems and their appearance should therefore be kept to a minimum. 1) Moorage space for residents and owners should be centralized at one or more locations. 2) Private floats and docks serving only individual lots should be discouraged. 3) Houseboats should not be permitted. Water General (W-1) Zone (i) Boat and seaplane moorage associated with single family uses located on adjacent upland.

Gambier Island Local Trust Area

Marine and Foreshore Areas Policy states that zoning should allow: cooperatively owned or operated docks to provide marine access to residential areas as a means of minimizing the need for upland road links between residential communities and to limit the need for multiple dock development along the shoreline. Also, property owners are encouraged to retain natural vegetation on any land sloping towards the shoreline. The Local Trust Committee may issue development permits to protect the natural environment, its ecosystems and biological diversity for Marine and Foreshore designated areas considered to have potential fishery resource values.

Keats Island

The Official Community Plan states that the integrity of foreshore features, shoreline features, and intertidal processes should be maintained by: a) discouraging uses that disrupt natural features and processes, and encouraging owners of shoreline properties to retain, wherever possible, natural vegetation and natural features on areas sloping towards the foreshore; b) supporting the prohibition of filling, deposit, excavation, or removal of foreshore and seabed materials, except for maintenance of navigational channels and existing wharfage areas; c) land use regulations should provide for waterfront developments to be setback sufficiently to allow for natural erosion and accretion processes, without endangering structures; d) where land use regulations provide for private docks, the use of communal or shared docks is encouraged, where feasible, to limit the need for multiple dock development along the shoreline. The location of new buildings and structures should be regulated so as to protect public access to, from and along the marine shoreline and to minimize negative impacts on sensitive coastal environments.

Gambier Associated Islands

Policies in the Official Community Plan state that the LTC should identify and consider protecting ecologically sensitive marine areas. The

LTC should permit and encourage the construction and use of common, community, or communal docks where feasible but permit individual private docks accessory to residential uses where required for access. The LTC should use bylaw provisions to protect public access to, from, and along the marine shoreline. The LTC should, through zoning, the use of setbacks and, where there is supporting mapping, the use of development permit areas: (a) protect the integrity of the foreshore, shoreline, and natural coastal and intertidal processes; (b) discourage uses that disrupt natural features and processes; (c) allow for natural erosion and accretion processes, without endangering structures; (d) encourage owners of shoreline properties to retain, wherever possible, natural vegetation and natural features on areas adjacent to the foreshore; and (e) discourage filling, deposit, excavation, or removal of foreshore and seabed materials, except for maintenance of navigational channels and existing facilities. Modification of the shoreline, such as seawalls, where it can be demonstrated to be necessary to support or protect a permitted or existing use or structure. Preference should be given to shoreline structures that have a lesser impact or enhance ecological functions, including vegetation enhancement, drainage control, beach enhancement, anchor trees, and gravel placement. Shoreline stabilization should not interrupt natural processes solely to reduce erosion of undeveloped land. Vegetation which helps stabilise banks, reduce erosion and provide habitat should be retained or enhanced.

Galiano Island Local Trust Area

The Official Community Plan explains the complex geography and geology of Galiano Island and surrounding islands and waters have produced a tremendous diversity of coastal and marine habitats. Unique relationships exist between terrestrial, fresh water and marine areas; as a result, coastal ecosystems are the most diverse and productive of all ecosystems. Significant recreational, commercial, industrial, and residential activities occur within the shoreline area and this sensitive area is under intense pressure from development and human activity. The Shoreline and Marine designation incorporate as all waters beyond high tide line up to the full boundary of the Galiano Island Local Trust Area. The objectives are: 1) to protect shoreline and marine ecosystems in the local trust area, 2) to ensure public access to the foreshore, and 3) to encourage safe and considerate use of the marine environment. There is a Shoreline and Marine Development Permit Area. Shorelines within the Galiano Island Local Trust Area have high ecological function and values and may be subject to shoreline erosion in some locations. Due to their physical and biological characteristics and situation they need to be carefully managed to avoid potential negative impacts of development. Development and associated shoreline improvements or protection measures can threaten the ecological and physical integrity of the foreshore and upland. The Objectives of the development permit area are:

1. To plan and regulate new development in a manner that preserves and protects the long-term physical integrity and ecological values of shorelines and associated foreshore and upland areas.
2. To manage development to minimize disruption of natural features and processes and to retain, wherever possible, natural vegetation and natural features.
3. To balance development opportunities with the ecological conservation of the shoreline environment.
4. To maintain the public's use and access to these important recreation areas in a way that does not compromise the ecological integrity of the shoreline or put users at undue risk.

5. To adapt to the anticipated effects of climate change.
6. To protect development from hazardous conditions resulting from shoreline erosion.
7. To ensure the form and character of marina development is compatible with the rural environment and minimizes impact to the aquatic environment.

The DPA includes Guidelines and provides information on Shoreline Protection Measures, Guidelines for specific Shoreline Types, Guidelines for Subdivision, Guidelines for Shore Protection Measures Design, Guidelines for Beach Nourishment and Fill, and Guidelines for Shore Access and Parking. There is also a Sensitive Ecosystem Development Permit area with some policies for shorelines.

Hornby Island Local Trust Area

The objectives of the Official Community Plan include, to promote the conservation, preservation or restoration of shoreline, foreshore, and the Island's surrounding marine ecosystem. Policies include 6.7.2.1 All uses of the waters within 1000 metres of the shoreline should be regulated by zoning.

Lasqueti Island Local Trust Area

Objectives include the support conservation-based subdivision layout that protects sensitive ecosystems, heritage resources and reduces parcelization of the natural boundary of the sea and limitation of the density of waterfront parcels.

Mayne Island Local Trust Area

Official Community Plan Objectives include: to retain the public accesses to shoreline and beach areas. The coastal waters within the Mayne Island Trust Area include the surface of the water extending from the shoreline of Mayne Island out to the middle of the Georgia Strait, except where the jurisdictional boundary overlaps with another Local Trust Area when the boundary becomes a line mid-channel. The objectives of this section are to limit the impact of foreshore uses on adjacent uses and on the visual appearance of the shoreline. Private floats, docks or wharves shall be permitted by zoning only for owners of land adjacent to the shoreline of the water area subject to the zone.

North Pender Island Local Trust Area

Sensitive Ecosystem Development Permit Areas are included in the Official Community Plan. Stipulations include: Shoreline structural modifications should be limited in number and extent and should be necessary to support or protect a permitted or existing use or structure. Preference should be given to shoreline structures that have a lesser impact or enhance ecological functions, including vegetation enhancement, drainage control, beach enhancement, anchor trees, gravel placement. Harder construction measures should be avoided where possible. Shoreline stabilization should not interrupt natural processes solely to reduce erosion of undeveloped land, except for agriculture. Vegetation which helps stabilise banks, reduce erosion and provides habitat should be retained or enhanced.

Salt Spring Island

The Official Community Plan objectives include: To give particular attention to the streams, wetlands, and shorelines. The Ministry of Transportation and Infrastructure and other responsible agencies are encouraged to support efforts to create a harbour shoreline that offers access to the harbour and opportunities for walking and traditional recreational activities. Shoreline and Aquatic Use Objectives and Policies are: To protect our marine and freshwater shorelines. To protect the most significant ecological and physical processes of marine and freshwater shorelines; To identify those shoreline areas that are most uniquely suited to or traditionally used for specific purposes such as conservation, First Nations sites, public recreation, boat moorage, aquaculture, industry or transportation; To avoid conflicts between shoreline uses and uses allowed on the adjacent upland; To avoid shoreline uses that impede public access to and along the shoreline; Shoreline identified as uniquely suited to or traditionally used for a specific purpose is designated for that use. Other parts of the shoreline and areas of water are designated Marine; The Local Trust Committee could undertake an integrated coastal area management (ICAM) planning process to identify other appropriate areas where specific designations should be placed. Such planning should take place in consultation with the community, First Nations, and other levels of government; The Local Trust Committee may consider shoreline rezoning applications adjacent to marine dependent general employment zoning which may make upland uses economically viable without detriment to the shoreline/riparian habitat. Shoreline Conservation Designation Objectives are: To protect the island's most environmentally sensitive shoreline areas such as tidal flats, fish and wildlife habitat, sensitive lake ecosystems, estuaries and wetlands that is not suitable for intensive development. and Policies include: Zones created in this Designation should not result in negative impacts to sensitive natural habitat areas. The Local Trust Committee will not consider rezoning applications that would locate large new developments in or next to this Designation. Zoning should recognize the existing aquaculture operation in Walker Hook. However, zoning changes to allow expansion of the operation will not be made, unless it can be demonstrated that there will be no impacts on the area's sensitive environment or First Nation's interests. The Local Trust Committee should support the efforts of other agencies to maintain existing public accesses to the Shoreline Conservation Designation. However, if the adjacent upland is being subdivided, the Subdivision Approving Officer is encouraged to ensure that any new public accesses provide viewing areas rather than direct physical access to sensitive habitat areas. In providing referral responses to Integrated Land Management Bureau, Islands Trust staff will identify any known and identified environmentally sensitive areas or habitat that may be impacted by the proposed use.

Saturna Island Local Trust Area

The Harbours section within the Official Community Plan states that Permanent private moorage facilities, including docks, ramps, floats, and breakwaters, should be as small as practicable given the particular conditions, including shoreline topography, depth of navigable water, exposure to weather and other navigational considerations. These facilities shall be designed to facilitate public access along the foreshore.

The DPA for Lyall Creek states that i) In general, development of the foreshore should be limited, should minimize negative impacts on the ecological health of the immediate area, and should not impede public access. ii) Shoreline protection measures should be limited to those necessary to prevent damage to existing structures or established uses on the adjacent upland. Softer shore protection measures should be considered first, and only if all options to locate and design without the need for shore protection works have been demonstrated to have been exhausted should such works be considered.

South Pender Island Local Trust Area

Marine Use Objectives in the Official Community Plan are a) To allow dock and wharf development for access to and from the foreshore in locations appropriate for public transportation, commercial, park, and residential purposes. b) To allow for access to beaches suitable for recreation and maintain them free from development.

c) To retain areas of foreshore in an undeveloped state. d) To protect against impacts of mariculture operations, marine shipping, or marine based activities. e) To protect the marine areas subject to this OCP from use and development that would detract from present marine, and upland uses or conflict with existing marine life. f) To protect and maintain important foreshore and marine features and habitats. g) To provide for and support foreshore and marine waters use in a manner that does not significantly alter important natural features and habitat. Policies include: The Local Trust Committee may regulate the size and location of docks and other shoreline developments. Coastal Environment Objectives include: To preserve the aesthetic quality of the natural shoreline as viewed from the water and adjacent lands and related policies: Where development is allowed along shorelines, it shall be designed to conform to, rather than conceal, the natural contours of the land that borders the shoreline.

Thetis Island

Official Community Plan includes the entire Island and the seaward area from the shoreline of Thetis Island as identified by the natural boundary of the sea and encompasses all other islands, islets, reefs, the seabed, surface water, and air space. Policies include: Public access to the Crown land foreshore should remain unobstructed and the right to pass around shoreline structures. The integrity of foreshore features, shoreline features, and intertidal processes may be maintained by a) Discouraging uses that disrupt natural features and processes and encouraging owners of shoreline properties to retain, wherever possible, natural vegetation and natural features on areas sloping towards the foreshore. b) Supporting the prohibition of filling, deposit, excavation, or removal of foreshore and seabed materials, except for maintenance of navigational channels and existing wharfage areas. c) Land use regulations should provide for upland waterfront developments to be setback sufficiently to allow for natural erosion and accretion processes, without endangering structures. d) Where land use regulations provide for private docks, the use of communal docks is to be encouraged where feasible and breakwaters are to be prohibited.

Thetis Associated Islands (Ruxton, Reid, Pylades, Hudson, Scott, Dayman, Tree, and Whaleboat)

Official Community Plan Policy: considers the location of future land uses so that their appearance and impact are compatible with and do not degrade or otherwise negatively impact the natural environment, community resources, and the character of existing land uses; the protection of sensitive ecosystems, ecological values and wildlife and fisheries habitats, especially in inter-tidal, estuarine, stream and riparian areas, in accordance with the current published guidelines as expressed in the Forest Practices Code, the Fish Protection Act and other guidelines published by the provincial and federal governments.

Ballenas and Winchelsea

Official Community Plan Policies include: LTC should identify and consider protecting ecologically sensitive marine areas; Zoning should permit shellfish aquaculture within existing tenures; LTC may consider rezoning applications for new leases for aquaculture, other than finfish farms; LTC should recognize and support the marine dependent nature of land uses; LTC should permit one dock adjacent to each private island in order to limit the need for multiple private dock development along the shoreline; LTC should only consider individual private docks accessory to residential uses where necessary for access. These docks should be regulated by zoning; LTC should not permit commercial marinas; LTC should use bylaw provisions to protect public access to, from and along the marine shoreline; use bylaw provisions

to limit structures within the setback from the sea to those related to permitted marine uses and those necessary for access to the foreshore; through zoning, the use of setbacks, and the use of development permit areas: (a) protect the integrity of the foreshore, shoreline, and natural coastal and intertidal processes; (b) discourage uses that disrupt natural features and processes; (c) allow for natural erosion and accretion processes; (d) encourage owners of shoreline properties to retain natural vegetation and natural features on areas adjacent to the foreshore; and (e) discourage filling, deposit, excavation, or removal of foreshore and seabed materials. The LTC should not permit the hardening of the shoreline. LTC should not support ocean disposal applications within the Plan area. LTC should not support the creation of artificial reefs within the Plan area.

Review other Examples

- Oak Harbour SMP

Shoreline Environment Designations

The basic intent of a shoreline environment designation is to preserve and enhance shoreline ecological functions and to encourage development that will enhance the present or desired future character of the shoreline as described in the Comprehensive Plan, other adopted plans and this SMP. To accomplish this, shoreline segments are given an environment designation based on existing development patterns, biological capabilities and limitations, and community objectives. This Master Program establishes seven shoreline environments for the City of Oak Harbor. These shoreline environments include shorelands, surface waters, and bed lands. These environments are derived from and build on policy direction contained in the Oak Harbor Shoreline Inventory and Characterization Report, the Oak Harbor Comprehensive Plan, the Shoreline Management Act, and the Shoreline Master Program Guidelines. The seven Oak Harbor shoreline environment designations are: Maritime, Urban Mixed Use, Residential, Residential - Bluff Conservancy, Urban Public Facility, Conservancy, and Aquatic.

- Natural Resources Canada, Land Use Planning Tools 2012

This publication describes a variety of planning tools being used across Canada to help communities prepare for climate change, increase adaptive capacity, and build resilience. It is directed to individuals and groups interested in climate change adaptation at the local level, including planners and other local government staff, elected officials, community organizations, local residents and business leaders.

Climate Change Land use planning tools for local adaptation to climate change describes seven of the most prominent land use planning tools in use across Canada and explains how communities can use them to more effectively adapt to climate change.

The land use planning processes and instruments employed to manage the use of land and the physical development of a community for the common interest includes a variety of statutory and other measures – bylaws, incentives, information and guidance, spending

programs – may be applied to control how land is used. [Land use planning tools for local adaptation to climate change \(publications.gc.ca\)](http://publications.gc.ca)

- Rural Comox Valley OCP 2014

Natural Environment: Objectives

(4) To protect, restore and enhance coastal shorelines, streams, wetlands, and the marine environment.

Climate change – policies (adaptation)

14. (1) Develop strategies to reduce the environmental, social, and economic impact of sea level rise and increasing extreme storm surge events in coastal areas through development permit area designations and conditions and submission of development approval information in accordance with policies included within this OCP.

14. (2) Work with stakeholders to complete an assessment of risk and susceptibility of the coastal areas to increasing sea level and extreme storm surge impacts.

Rural settlement areas – policies (industrial) (d) public access to the coastal waterfront, where applicable.

Coastal areas

68. Coastal areas are those lands that run parallel to the full waterfront of the CVRD, generally extending from the present natural boundary to the 30-metre bathymetric contour as illustrated on map 3. Activities are typically environmental protection, aquaculture, marine industry, and recreation. This plan seeks to protect such uses while discouraging activities both on the water and the abutting upland areas that could compromise the environmental integrity of the aquatic environment.

Coastal area - objectives

69. (1) To minimize any negative impacts of settlement on the coastal areas. (2) To steward these areas for their environmental and economic benefits. (3) To encourage appreciation of the marine environment, by providing for public access to, and enjoyment of, the shoreline and foreshore in ways that avoid negative impacts to natural systems and processes. (4) To ensure that coastal shoreline development does not alter sediment supply to the coastal environment or sediment transport within the coastal environment. (5) To reduce lighting impacts on species and ecosystems within the coastal area.

Coastal areas - policies

70. The following policies apply to the lands designated as “coastal areas” Rural Comox Valley Official Community Plan 2014 Bylaw No. 337 – Schedule ‘A’ (1) Permit industrial marine and aquaculture uses in the coastal area designation, except for areas within the K’ómoks Estuary where they are prohibited. (2) Notwithstanding above sub-section (1) sustainability and productivity of the K’ómoks Estuary is recognized as being critical for harvesting of aquaculture to K’ómoks First Nation, and it is recognized that the KFN may choose to proceed with aquaculture activities within the estuary at any time. (3) Protect coastal areas per the provisions stated in the natural environment sections of this OCP. (4) Respect the Islands Trust area of jurisdiction that includes the ocean area to the high-water mark of the eastern coast of Vancouver Island from Mud Bay to Comox Point and ensure development within the buffer

extending from the high-water mark to the 30-metre bathymetric contour considers the Islands Trust policy statement. (5) Support dock-side sales and limited on-site sales of aquaculture products that meet legislative requirements to promote economic activities. (6) Work with aquaculture industry stakeholders and small-scale aquaculture operations to support water flow into fish-bearing river systems of the Comox Valley. (7) Apply environmental best practices to all uses within the coastal designation (8) Recognize and support the need of the aquaculture industry to effectively grow seed to replenish existing oyster beds and support in principle the use of power supplies from wharfs for the growing of seed for the aquaculture industry, providing legislative requirements are met. (9) Generally, prohibit hardening of the coastal shoreline through the use of rip rap, concrete embankments and revetment walls, and other similar structural interventions that alter the ecological function and service of the coastal shoreline, disturb natural vegetation, disrupt natural coastal processes, redirect wave energy to adjacent properties, and/or destroy coastal shore habitat, including forage and spawning areas. If a qualified professional has submitted development approval information that concludes that shoreline hardening is required to protect life or a principal building on the property and that the impacts of the proposed hardening can be mitigated, the board may consider issuance of a shoreline protection device development permit. (10) Require preparation of a shore access plan by a qualified environmental professional for development proposals that include shore access and require rezoning or a development permit process to protect against sensitive environmental features and processes being disturbed. (11) Regulate by the development permit process to reduce light trespass (i.e., light that crosses property lines including the present natural boundary) and light glare (i.e., excessive illumination applied to a single area) within the coastal area to avoid disruption of natural activity patterns of coastal and marine species. (12) Assess proposed land uses or development within the K'ómoks Estuary in accordance with a completed and finalized K'ómoks Estuary management plan that has been endorsed by all affected jurisdictions.

Shoreline protection devices

Guidelines where an applicant proposes the installation, replacement, or repair of a shoreline protection device under these guidelines, the design of the device shall contribute to shoreline resiliency by following soft shore (e.g., “Green shore”) principles:

- Conserve or restore natural coastal or riparian processes (e.g., sediment transfer).
- Maintain habitat function and diversity.
- Prevent pollutants from entering the aquatic or riparian environment.
- Avoid or reduce cumulative impacts on the shoreline environment, including coastal or riparian processes. All proposals shall incorporate design elements that contribute to coastal resiliency by protecting or restoring natural coastal processes and habitat. Except when a hardened shoreline is proposed (i.e., based on the findings of a qualified professional that shoreline hardening is required to protect life and/or a principal building), shoreline protection device development permits can be approved under delegated authority. Proposals to harden a shoreline, including replacement and/or maintenance of an existing hard shoreline with similar hard design elements shall require board approval of the development permit.

- Campbell River Sustainable OCP n/a
- Sydney OCP – n/a
- Ucluelet OCP (2011)

3.4 Small Craft Harbour, Marine

The water areas of Ucluelet are generally designated as either: Small Craft Harbour (three water lots); Water Lot (majority of water lots); or Managed Water (remaining water areas not in registered water lots) In addition to these three designations, several water lots are designated in conjunction with the adjacent land-based designation (e.g. Village Square or Residential) Each registered water lot is inextricably linked to various adjacent land uses; hence the relationship between land and water requires careful consideration, which could include parking needs, water and sewer servicing and visual impacts. In conjunction with the sustainability objectives noted in the OCP, the District should consider protecting environmentally sensitive areas and shoreline habitat.

The District shall work with the Department of Fisheries and Oceans to: i. Identify environmentally sensitive areas; ii. Support marine ecology and marine education facilities within the Harbour; iii. Consider alternate long-term uses, such as residential, including a private marina, for the former BC Packers Plant; iv. Consider enhancing public access to the District owned water lot at the foot of Alder Street; v. Support transient boat moorage provided adequate sanitation facilities are located nearby; vi. Require all water lot uses to properly treat and dispose sanitary sewer waste and connect into the District's sewer collection system and access District potable water; vii. Require all structures to apply for and obtain a Building Permit, which addresses health and safety regulations; and viii. Explore ways and means of generating revenue to fund Harbour infrastructure.

2. iii. Managed Water All water areas located between the shoreline and the District boundaries, excluding all registered water lots, are designated as "Managed Water". Managed Water Policies: A comprehensive review of the area within the Managed Water designation will be carried out by the District. Until this time, no uses are permitted within the area, including boat or houseboat moorage.

+ Policies for Development Permit Areas

- Victoria OCP –

SHORELINE ECOSYSTEMS 10.9 Protect and enhance shoreline and marine habitat by: 10.9.1 Considering the establishment of Development Permit Area guidelines that consider best practices such as appropriate building setbacks, guidance for enhancing habitat values and the integration of climate change adaptation planning; 10.9.2 Establishing a Development Permit Area for the east side of the Upper Selkirk Waters to protect the unique natural features of this area; 10.9.3 Investigating the acquisition and designation of shoreline ecosystems through a Parks Acquisition Strategy; 10.9.4 Integrating restoration of natural shoreline features into the development of the Harbour Pathway, where appropriate; 10.9.5 Enhancing the Dallas Road Bluffs through the development of management zones and restoration targets; and, 10.9.6 Developing management strategies and initiatives for shoreline parklands that maintain and enhance coastal sediment processes. 10.10 Work in partnership with the Capital Regional District, the Township

of Esquimalt, the Town of View Royal, the District of Saanich, and other partners to increase coordination in the protection and restoration of Victoria Harbour and the Gorge Waterway. 10.11 Work with partners to assess the projected impacts of sea level rise on marine and shoreline ecosystems and respond to changing conditions through management strategies and development of a Climate and Energy Resiliency Plan [SEE ALSO SECTION 12 – CLIMATE CHANGE AND ENERGY].

- Powell River OCP 2014

5.5 Tidal / Saltwater Riparian Areas. The City is bounded on the west and south by Malaspina Strait. Due to exposure, topography, and historic private/industry ownership of much of the waterfront, direct community interaction, enjoyment, and exposure to the tidal water edge is limited. Increased public access to the waterfront and protection of the environmental quality of that waterfront is a priority for Powell River residents. Upland improvements to support expansion of harbour or any waterfront development must include environmentally sustainable measures.

5.5.1 Tidal/Saltwater Riparian Areas Objectives (a) Protect the shoreline along Malaspina Strait through the use of measures that take natural processes into consideration and do not detrimentally impact adjacent properties. (b) Plan for long-term climate change including sea level rise and associated storm impacts.

5.5.2 Tidal/Saltwater Riparian Areas Policies

(a) All development along the shoreline of Malaspina Strait must plan for a sea level rise of 1.0 metre and associated storm surge and coastal erosion.

(b) Except for shoreline protection measures and marine based structures such as ferry terminals, aquaculture facilities, breakwaters and moorage facilities, new buildings must be located a minimum of 15 metres from the natural boundary.

(c) Minimize the degradation of natural systems through steps such as protecting the foreshore from erosion, by retaining embankment vegetation and through construction that does not require vertical sea walls.

(d) All shoreline protection measures should include environmentally sustainable practices such as the retention and restoration of natural shoreline vegetation, and landscaping strategies that require little or no revetment and minimize erosion but augment bank stabilization, in conformance with the guidelines contained in the 2003 Federal/Provincial publication entitled Coastal Shore Stewardship: A Guide for Planners, Builders and Developers.

(e) Parking lots at or near the water's edge should consider permeable surfaces (e.g., grass, gravel, or open interlocking paving systems) to ensure bio-filtration of hydrocarbons and heavy metals from the undercarriage of vehicles from surface water drainage.

(f) It is recognized that the coastal shoreline undergoes a natural progression of accretion and erosion gradually over the long term or suddenly in severe storm events. The City shall endeavour to map and track this process as it relates to the shoreline for the purposes of land use planning.

(g) The City supports ensuring that storm water runoff from buildings and land is managed through a stormwater management system or other natural bio-filtration system where possible.

REFERENCES

General:

www.islandstrust.bc.ca/islands/island-ecosystems/caring-for-my-shoreline/greenshores-approach-your-marine-waterfront-canadian-edition-final-web-version.pdf (islandstrust.bc.ca)

[Islands Trust Conservancy](#)

[Microsoft Word - GS Jurisdiction Issue Sheet ver4 Oct09Final2.doc](#) (islandstrust.bc.ca)

[Greening Our Shores Workshop Presentations.pdf](#) (islandstrust.bc.ca)

[Critical Areas and Shoreline Monitoring & Adaptive Management Workshops](#) (washington-apa.org)

www.crd.ba.ca/docs/default-source/climate-action--pdf/sea-level-rise-planning-approaches-project-report.pdf?sfvtsn=d29757ca_0

Sea Level Rise:

[coastal-flood-inundation-mapping-project-summary.pdf](#) (crd.bc.ca)

<https://www2.gov.bc.ca/assets/gov/environment/climate-change/adaptation/resources/slr-primer.pdf>

[Coastal Floodplain Maps - Province of British Columbia](#) (gov.bc.ca)

City of Delta Sea Level Rise Strategy (2015): [119360](#) (civicweb.net)

[Sea Level - Environmental Reporting BC](#) (gov.bc.ca)

Island Ecosystems:

[Marsh Fine Sediment](#) (islandstrust.bc.ca)

Planning Tools | OCP + Development Permit Areas

District of Squamish OCP (2018): Development Permit Area guidelines: page 170

Specific Projects:

Bowen Island: [PowerPoint Presentation - Slide 1 \(civicweb.net\)](#)

] [June 2017 Attachment 2 Draft DPA Marine Shoreline Protection \[48138](#)

Lasqueti: [Shoreline Protection Project \(islandstrust.bc.ca\)June 2017 Attachment 1 Shoreline Protection OCP LUB.pdf](#)
[aug-2017-la-shoreline-mailout.pdf \(islandstrust.bc.ca\)](#)

[Sharing Our Shorelines Presentation.pdf \(islandstrust.bc.ca\)](#)

North Pender:

(brochure): [shorelinesmatterbrochure.pdf \(islandstrust.bc.ca\)](#)

Thetis:

[Thetis-Shoreline-Data-Compilation-for-workshop.pdf \(islandstrust.bc.ca\)](#)

[Summary-Report-Shoreline-Scenarios-workshop.pdf \(islandstrust.bc.ca\)](#)

[LPS Staff Report \(islandstrust.bc.ca\)](#)

[Microsoft Word - 1214420001-001-R-Rev0-Thetis Island Shoreline 24MAY 13.docx \(islandstrust.bc.ca\)](#)

Mapping:

Bowen Island: [Bowen Island Shoreline Maps - Briefing for BIM.pdf \(civicweb.net\)](#)

Lasqueti: [lasquetishorelinemapping.pdf \(islandstrust.bc.ca\)](#)

North Pender: [Map NPShorelineFeatures1.pdf \(islandstrust.bc.ca\)](#)

Forage Fish: [foragefishreport.pdf \(islandstrust.bc.ca\)](#)

South Pender: [Map.ShorelineFeatures.pdf \(islandstrust.bc.ca\)](#)

Thetis: [Review of Thetis Island Shoreline Classification and Recommendations for Shoreline Development - March 31, 2010, Archipelago Marine Research Ltd. \(islandstrust.bc.ca\)](#)

Other:

[Landowners-Guide-September-draft-revised.pdf \(islandstrust.bc.ca\)](#)

Local Updates (caorda.com)

Hul'qumi'num Heritage Law Case Study Report

KFN Marine Plan 2012.pdf (komoks.ca)

squamish.ca/assets/OCP_Coastal marine planning

Policy Compliance Checklist

Policies for Ecosystem Preservation and Protection

CONSISTENT	NO.	DIRECTIVE POLICY
	3.1	Ecosystems
	3.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and protection of the environmentally sensitive areas and significant natural sites, features and landforms in their planning area.
	3.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning, establishment, and maintenance of a network of protected areas that preserve the representative ecosystems of their planning area and maintain their ecological integrity.
	3.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the regulation of land use and development to restrict emissions to land, air and water to levels not harmful to humans or other species.
	3.2	Forest Ecosystems
	3.2.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of unfragmented forest ecosystems within their local planning areas from potentially adverse impacts of growth, development, and land-use.
	3.3	Freshwater and Wetland Ecosystems and Riparian Zones
	3.3.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means to prevent further loss or degradation of freshwater bodies or watercourses, wetlands and riparian zones and to protect aquatic wildlife.
	3.4	Coastal and Marine Ecosystems
	3.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of sensitive coastal areas.

	3.4.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for and regulation of development in coastal regions to protect natural coastal processes.
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PART IV: Policies for the Stewardship of Resources

CONSISTENT	NO.	DIRECTIVE POLICY
	4.1	Agricultural Land
	4.1.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and preservation of agricultural land for current and future use.
	4.1.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation, protection, and encouragement of farming, the sustainability of farming, and the relationship of farming to other land uses.
	4.1.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of adjacent properties to minimize any adverse affects on agricultural land.
CONSISTENT	NO.	DIRECTIVE POLICY
	4.1.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the design of road systems and servicing corridors to avoid agricultural lands unless the need for roads outweighs agricultural considerations, in which case appropriate mitigation measures shall be required to derive a net benefit to agriculture
	4.1.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address land uses and activities that support the economic viability of farms without compromising the agriculture capability of agricultural land.
	4.1.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the use of Crown lands for agricultural leases.
	4.2	Forests
	4.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the need to protect the ecological integrity on a scale of forest stands and landscapes.

	4.2.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the retention of large land holdings and parcel sizes for sustainable forestry use, and the location and construction of roads, and utility and communication corridors to minimize the fragmentation of forests.
	4.2.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of forest ecosystem reserves where no extraction will take place to ensure the preservation of native biological diversity.
	4.3	Wildlife and Vegetation
	4.4	Freshwater Resources
	4.4.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure neither the density nor intensity of land use is increased in areas which are known to have a problem with the quality or quantity of the supply of freshwater, water quality is maintained, and existing, anticipated, and seasonal demands for water are considered and allowed for.
	4.4.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address measures that ensure water use is not to the detriment of in-stream uses
	4.5	Coastal Areas and Marine Shorelands
	4.5.8	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the needs and locations for marine dependent land uses.
	4.5.9	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the compatibility of the location, size and nature of marinas with the ecosystems and character of their local planning areas.
	4.5.10	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location of buildings and structures so as to protect public access to, from and along the marine shoreline and minimize impacts on sensitive coastal environments.
	4.5.11	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address opportunities for the sharing of facilities such as docks, wharves, floats, jetties, boat houses, board walks and causeways.
	4.6	Soils and Other Resources

	4.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of productive soils.
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PART V: Policies for Sustainable Communities

CONSISTENT	NO.	DIRECTIVE POLICY
	5.1	Aesthetic Qualities
	5.1.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the protection of views, scenic areas and distinctive features contributing to the overall visual quality and scenic value of the Trust Area.
	5.2	Growth and Development
	5.2.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address policies related to the aesthetic, environmental and social impacts of development.
	5.2.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address any potential growth rate and strategies for growth management that ensure that land use is compatible with preservation and protection of the environment, natural amenities, resources and community character.
	5.2.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address means for achieving efficient use of the land base without exceeding any density limits defined in their official community plans.
	5.2.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of areas hazardous to development, including areas subject to flooding, erosion or slope instability, and strategies to direct development away from such hazards.
	5.3	Transportation and Utilities
	5.3.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of a classification system of rural roadways, including scenic or heritage road designations, in recognition of the object of the Islands Trust.

	5.3.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the impacts of road location, design, construction and systems.
	5.3.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the designation of areas for the landing of emergency helicopters.
	5.3.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the development of land use patterns that encourage establishment of bicycle paths and other local and inter-community transportation systems that reduce dependency on private automobile use.
	5.4	Disposal of Waste
	5.4.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of acceptable locations for the disposal of solid waste.

CONSISTENT	NO.	DIRECTIVE POLICY
	5.5	Recreation
	5.5.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the prohibition of destination gaming facilities such as casinos and commercial bingo halls.
	5.5.4	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the location and type of recreational facilities so as not to degrade environmentally sensitive areas, and the designation of locations for marinas, boat launches, docks and anchorages so as not to degrade sensitive marine or coastal areas.
	5.5.5	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification of sites providing safe public access to beaches, the identification and designation of areas of recreational significance, and the designation of locations for community and public boat launches, docks and anchorages.

	5.5.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification and designation of areas for low impact recreational activities and discourage facilities and opportunities for high impact recreational activities.
	5.5.7	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the planning for bicycle, pedestrian and equestrian trail systems.
	5.6	Cultural and Natural Heritage
	5.6.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the identification, protection, preservation and enhancement of local heritage.
	5.6.3	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address the preservation and protection of the heritage value and character of historic coastal settlement patterns and remains.
	5.7	Economic Opportunities
	5.7.2	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address economic opportunities that are compatible with conservation of resources and protection of community character.
	5.8	Health and Well-being
	5.8.6	Local Trust Committees and Island Municipalities shall, in their official community plans and regulatory bylaws, address their community's current and projected housing requirements and the long-term needs for educational, institutional, community and health-related facilities and services, as well as the cultural and recreational facilities and services.

POLICY STATEMENT COMPLIANCE	
	COMPLIANCE WITH TRUST POLICY
	NOT IN COMPLIANCE WITH TRUST POLICY for the following reasons:



File No.: 3900-03: LPS Admin Bylaw
(Meeting Procedures Bylaw)

DATE OF MEETING: January 27, 2022
TO: North Pender Island Local Trust Committee
FROM: Robert Kojima, Regional Planning Manager
Southern Team
SUBJECT: Proposed Meeting Procedures Bylaw

RECOMMENDATION

1. That the North Pender Island Local Trust Committee Bylaw No. 227, cited as “North Pender Island Local Trust Committee Meeting Procedure Bylaw No. 227, 2022”, be given first, second, and third reading.
2. That the North Pender Island Local Committee Bylaw No. 227, cited as “North Pender Island Local Trust Committee Meeting Procedures Bylaw No. 227, 2021”, be forwarded to the Secretary of the Islands Trust for approval by the Executive Committee.

REPORT SUMMARY

The purpose of this report is to present an amended meeting procedures bylaw that would incorporate provincial regulation changes permitting local government regular business electronic meetings, as well as incorporating other updates to the bylaw.

BACKGROUND

On September 29, 2021 the [Islands Trust Electronic Meeting Regulation](#) was amended to allow Trust Council, Executive Committee, local trust committees and the Islands Trust Conservancy Board to conduct regular meetings electronically, in addition to special meetings which are already provided for. To implement the new authority for electronic regular meetings, the LTC would need to make amendments to its meeting procedure bylaw. The current bylaw was adopted in 2004, with amendments in 2020 to allow for electronic special meetings. The proposed bylaw would also incorporate provisions adopted in 2014 in the Salt Spring meeting procedures bylaw for meeting decorum.

The proposed amendments are noted in the attached draft and include:

- The date of the first regular meeting of the term would be determined by an RWM vote of the LTC, rather than by the Chair as currently.
- There would be a minimum of two in-person meetings per year
- Provisions for notice of electronic meetings, including the place where the public can attend to hear, or watch and hear the meeting
- A new section on LTC delegations, consistent with the current Salt Spring meeting procedures bylaw
- A new section on Order and Decorum, consistent with the current Salt Spring meeting procedures bylaw
- A new section authorizing local trustees to invite presentations to the LTC
- A new section on public participation, consistent with the current Salt Spring meeting procedures bylaw

Sections 18 through 40, which provide for delegations, public participation and decorum, would be new with this bylaw, and are based on the Salt Spring model, which is the most recently adopted meeting procedures bylaw. If the LTC does not wish to include those changes, the draft can be amended by deleting sections 18 through 40 without affecting the other provisions or the ability to hold electronic meetings.

Legal counsel has reviewed the proposed changes. If adopted, the new bylaw would allow electronic regular meetings, and the meeting procedures bylaw would be consistent with other meeting bylaws throughout the Trust Area.

Submitted By:	Robert Kojima Regional Planning Manager	January 6, 2022
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ATTACHMENTS

1. Draft Bylaw No. 227

**NORTH PENDER ISLAND LOCAL TRUST COMMITTEE
BYLAW NO. 227, 2022**

A bylaw to establish procedures for meetings of the Local Trust Committee

The North Pender Island Local Trust Committee, being the local trust committee having jurisdiction in respect of the North Pender Island local trust area under the *Islands Trust Act*, enacts as follows:

SHORT TITLE

1. This bylaw may be cited as "North Pender Island Local Trust Committee Meeting Procedure Bylaw No. 227, 2022".

MEETINGS AND NOTICE OF MEETINGS

2. The first regular meeting of the Local Trust Committee shall be held on a date to be determined by the Local Trust Committee by Resolution Without Meeting following a general local election.
3. At the first regular meeting and at the last regular meeting of each of the first, second, and third years following a general election, or by Resolution Without Meeting, the Local Trust Committee shall establish a schedule of the date, time and place of regular Local Trust Committee meetings for the following calendar year, of which there shall be at least two held in-person and the schedule shall be posted on a bulletin board on island that is accessible to the public and in the Office of the Islands Trust.
4. Public notice of the availability of the regular meeting schedule at the place specified in Section 3 shall be given at least once a year by publication in a newspaper circulating in the local trust area.
5. Advance public notice of a regular or special meeting that is to be conducted by means of electronic or other communication facilities shall include the way in which the meeting is to be conducted by means of electronic or other communication facilities and the place where the public may attend to hear, or watch and hear, the proceedings that are open to the public and shall be posted at the places specified in Section 3 and delivered to trustees in accordance with Section 6. Notice of a special meeting which is to be conducted by means of electronic or other communication facilities shall be delivered to the trustee in accordance with Section 7.
6. Each local trustee shall provide to the Secretary of the Islands Trust a telephone number and mailing address for the purpose of receiving notices of Local Trust Committee meetings, and notice shall be deemed to have been sufficiently given to the local trustee if the notice is delivered to the trustee's mailing address or given to the trustee in person.
7. Any two members of the Local Trust Committee may call a special meeting by giving notice of the day, time, place and purpose of the meeting to the third member of the Committee by telephone or written notice delivered to the trustee at least 48 hours before the time of the meeting, and by posting the notice at the places specified in Section 3, except that notice to Local Trust Committee members may be waived by unanimous vote.
8. If the Chairperson is not one of the members calling the special meeting, the members calling the special meeting shall, prior to doing so, advise the Chairperson of the calling of the meeting and consider the Chairperson's representations, if any, regarding the calling of the meeting.

Commented [RK1]: Changed from Chair establishing first meeting date to an LTC resolution

Commented [RK2]: Changed from a minimum of two meetings to a minimum of two in-person

Commented [RK3]: Electronic meeting notice provisions for regular meetings and incorporates previous provisions for electronic special meetings

9. Regular and special meetings of the Local Trust Committee shall be open to the public, except where the Committee has stated by resolution in open meeting that the meeting or portion of the meeting is to be closed to the public, and has stated the statutory basis on which it is to be closed.
10. A quorum of the Local Trust Committee is two members.
11. In the event that neither the Chairperson nor the alternate member of the Local Trust Committee appointed by the Chair of the Trust Council is present within one half hour of the scheduled time of a regular or special meeting, the Director of Local Planning Services, or his or her designate, shall call the meeting to order and the remaining trustees shall determine which of them shall act as Chairperson.

MINUTES

12. The Director of Local Planning Services or his or her designate shall legibly record the minutes of the meetings of the Local Trust Committee, and shall record any resolutions without meeting. After the minutes of a meeting have been adopted, the Director or his or her designate shall certify the minutes as correct and the Chairperson or other trustee who presided at the meeting shall sign the minutes.
13. The minutes shall record every resolution of the Committee, and the mover, including every resolution closing a meeting to the public, the reading and adoption of every bylaw, and every declaration made in relation to a conflict of interest.

MEETING PROCEDURE, RESOLUTIONS AND BYLAWS

14. Any question of meeting procedure that is not provided for in this Bylaw, the *Islands Trust Act*, the *Local Government Act*, the *Community Charter*, or regulations under either of those statutes, shall be resolved in accordance with the most current edition of *Robert's Rules of Order*.
15. Resolutions shall be in writing, and may be moved by any member of the Local Trust Committee.
16. Bylaws shall be in writing, may be read by title only, provided that each member of the Local Trust Committee is in possession of a complete copy of the proposed bylaw at the meeting, and may be adopted on a motion to that effect at a regular or special meeting. Bylaws may be read a first time, and may be adopted, by resolution without meeting.
17. The Chairperson of the Local Trust Committee or other trustee who presided at the meeting at which it was adopted, and the Secretary of the Islands Trust shall sign every bylaw adopted by the Local Trust Committee, and the Secretary shall keep a certified copy of the bylaw at the principal office of the Islands Trust.

DELEGATIONS

18. A Delegation period, limited to fifteen (15) minutes in duration, may be scheduled for each regular meeting of the Local Trust Committee and may be extended by unanimous vote of the members present.

Commented [RK4]: New section on delegations, consistent with provisions in current Salt Spring bylaw

19. An individual, or a representative of an organization, may request the opportunity to address the Local Trust Committee as a delegation. A delegation requesting permission to appear before the Local Trust Committee shall submit a written request to address the members of the Local Trust Committee. The subject of the written request and the presentation must fall within the jurisdiction of the Local Trust Committee, or address an item within the jurisdiction of the Islands Trust Council.
20. The written request must specify the subject matter of the presentation and include either a copy of the presentation or an overview of the information to be presented. The written request must also include the name and address of the person(s) speaking.
21. All written requests to appear before the Local Trust Committee must be received by the Deputy Secretary by 12:00 noon fourteen (14) calendar days prior to the meeting.
22. Each address shall be limited to five (5) minutes unless a longer period is agreed to by unanimous vote of those Local Trust Committee members present.
23. Any video presentations used as part of a delegation's address to the Local Trust Committee will count toward the time limit permitted for the delegation.
24. In the event of a delegation presenting a petition, the petition shall contain each petitioner's signature and printed name and address.
25. Where written requests have not been received by the Deputy Secretary as prescribed in section 20, an individual may address the meeting in the Public Participation period, as outlined within this bylaw.
26. The Local Trust Committee must not permit a delegation to address a meeting of the Local Trust Committee regarding a bylaw in respect of which a public hearing has been held, where the public hearing is required under an enactment as a pre-requisite to the adoption of the bylaw.
27. The Deputy Secretary may schedule delegations to another Local Trust Committee meeting according to the subject matter of the delegation.
28. The Deputy Secretary may refuse to place a delegation on the agenda if the issue is not considered to fall within the jurisdiction of the Local Trust Committee or address an item within the jurisdiction of the Islands Trust Council. If the delegation wishes to appeal the Deputy Secretary's decision, the information must be distributed under separate cover to the Local Trust Committee for their consideration.

ORDER AND DECORUM

29. The Chair is to preserve order at every meeting of the Local Trust Committee and has the power to make such rulings as are necessary to do so, including the power to rule on all points of order and may deny any individual or a delegation the right to address a meeting if, in the Chair's opinion, the individual or the delegation:
 - 29.1 makes defamatory remarks about any person or speaks disrespectfully of any person;
 - 29.2 addresses issues not contained within the written application of the individual or delegation, as prescribed in sections 19 and 20; or,

Commented [RK5]: New section consistent with current Salt Spring bylaw

- 29.3 immoderately raises his or her voice, or uses profane, vulgar or offensive language, gestures or signs.
30. Individuals and delegations will not be heard at regular meetings of the Local Trust Committee on the following:
- 30.1 the promotion of commercial products or services which have no connection to the business of the Local Trust Committee;
- 30.2 matters on which the Local Trust Committee has approved commencement of prosecution and on which judgment has not been rendered;
- 30.3 publicly tendered contracts or proposal calls for the provision of goods and services for the Local Trust Committee, between the time that such contract or proposal call has been authorized and the time such contract or proposal call has been awarded, either by the Local Trust Committee or Islands Trust staff; or
- 30.4 Topics which are normally dealt with by Islands Trust staff as a matter of routine.
31. A Local Trust Committee member may ask or answer questions of a member of the public who is addressing the Local Trust Committee. Debate with, or by any member of the Local Trust Committee or staff is not permitted.
32. The Chair or person presiding may expel and exclude a person from a meeting of the Local Trust Committee for improper conduct.

INVITED PRESENTATIONS

Commented [RK6]: From current Salt Spring bylaw

33. Members of the Local Trust Committee may, with the Chair's approval, invite a person, persons, or organizations(s) to make a presentation to the Local Trust Committee. Time permitting, the Deputy Secretary shall include the subject of the presentation and the designated speaker on the meeting agenda.

PUBLIC PARTICIPATION

Commented [RK7]: From current Salt Spring bylaw

34. A public participation period, limited to fifteen (15) minutes in duration, may be scheduled for each regular meeting of the Local Trust Committee and may be extended by majority vote of the Local Trust Committee members present.
35. A member of the public may have three (3) minutes to address the Local Trust Committee during the public participation period, unless extended by unanimous vote of the Local Trust Committee members present.
36. Persons wishing to address the Local Trust Committee will be asked to state their name and topic involved.
37. Subjects must relate strictly to matters under the jurisdiction of the Local Trust Committee, or items within the jurisdiction of the Islands Trust Council, unless the Local Trust Committee waives this requirement by majority consent.

38. Subjects must be on topics which are not normally dealt with by Islands Trust staff as a matter of routine.
39. Subjects must be brief and to the point.
40. The order of priority in which speakers will be heard during the duration of the public participation period will be determined as follows: first, those addressing items on the Local Trust Committee agenda; second, those addressing items within the jurisdiction of the Local Trust Committee; and third, those addressing items within the jurisdiction of the Islands Trust Council.

ELECTRONIC MEETINGS

41. Regular or special meetings of the Local Trust Committee beyond the minimum number of in-person physical meetings identified in Section 3 may be conducted entirely by means of electronic or other communication facilities if a majority of the members of the Local Trust Committee have agreed by resolution that the meeting may be conducted in this way and provided the Deputy Secretary has received sufficient notice and can make the necessary arrangements.
42. An individual Local Trust Committee member who is unable to attend at the physical location of a Local Trust Committee meeting that is held in-person may choose to participate by means of electronic or other communication facilities, provided the Deputy Secretary has received sufficient notice and can make the necessary arrangements.
43. Not more than one Local Trust Committee member may participate by means of electronic or other facilities when the meeting has been scheduled for an in-person meeting.
44. An individual member of the Local Trust Committee may not participate by means of electronic or other communication facilities in two consecutive regular Local Trust Committee meetings that are held in-person.
45. The Local Trust Committee may waive the restrictions in sections 43 and 44 by unanimous resolution, of the Local Trust Committee.
46. Local Trust Committee members who use electronic or other communication facilities to participate in a meeting conducted in accordance with this bylaw are deemed present at the meeting.
47. Members of the Local Trust Committee may begin participation in a meeting by electronic communication facilities after the meeting has been called to order.
48. Where members of the Local Trust Committee are participating in a meeting through electronic or other communication facilities, the facilities must enable all meeting participants to hear, or watch and hear, each other and must provide notice when participants join or leave the meeting.
49. Where members of the Local Trust Committee are participating in a meeting through electronic communication facilities, the facilities must enable the public to hear, or watch and hear, all meeting participants at a place specified in the meeting notice, unless the meeting has been properly closed to the public.

Commented [RK8]: Revised to authorize regular electronic meetings

50. For the duration of a Local Trust Committee meeting conducted by electronic or other communication means that is open to the public, a designated staff member shall be in attendance at the place specified in the meeting notice for the public to hear, or watch and hear, the meeting.
51. If communication is lost to one or more electronic participants during the meeting:
- 51.1 the participant affected will attempt to reestablish the link and, in the interim, will be deemed to have left the meeting and this will be recorded in the minutes;
 - 51.2 if there is not a quorum, the Local Trust Committee Chair or person presiding will call a recess until the link is reestablished; and,
 - 51.3 if, after 15 minutes, a link cannot be reestablished and there is not a quorum of Local Trust Committee members, the meeting will be deemed adjourned and the item under discussion at the time of loss of communication will be added to the next agenda.

EXECUTION OF DOCUMENTS

53. The Chairperson and one other member of the Local Trust Committee may execute any document on behalf of the Local Trust Committee once the Committee has authorized the execution of the document.
54. "North Pender Island Local Trust Committee Meeting Procedures Bylaw No. 156, 2004" is repealed.

READ A FIRST TIME THIS	_____	DAY OF _____,	20__
READ A SECOND TIME THIS	_____	DAY OF _____,	20__
READ A THIRD TIME THIS	_____	DAY OF _____,	20__
APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS	_____	DAY OF _____,	20__
ADOPTED THIS	_____	DAY OF _____,	20__

_____	_____
CHAIRPERSON	DEPUTY SECRETARY

File No.: 12-09-6410-08
(Sidney Island – Referral policy)

DATE OF MEETING: January 27, 2022
TO: North Pender Island Local Trust Committee
FROM: Robert Kojima, Regional Planning Manager
Southern Team
COPY: Kim Stockdill, Island Planner
SUBJECT: Sidney Island Referral Policy

RECOMMENDATION

1. That the North Pender Island Local Trust Committee request staff refer draft land use permits to the Sidney Island Strata Council and to work with the Strata Council on the specifics.

REPORT SUMMARY

The Local Trust Committee has requested that staff report back with options on a policy for referral of Sidney Island applications to the strata council.

BACKGROUND

Sidney Island is subject to the North Pender Associated Islands OCP and LUB. The majority of the island is a bare land strata ('Sallas Forest Strata'), with 111 residential lots. The LTC periodically receives applications from Sidney Island strata lot owners (approximately 9 over the last five years), primarily development permit applications for work within a geo-technical hazard development permit area. The LTC has expressed a desire to hear directly from the Strata Council on individual applications, and consequently have requested options to consider establishing a policy of referring applications to the Strata Council.

Staff met with several members of the Strata Council in December, primarily to discuss issues related to residential use of travel trailers and the Strata's potential application for an amendment to the LUB. However, staff also raised the possibility of initiating a referral process to the Strata Council; the members present had no general concerns with a referral process, but did not speak for the whole council.

ANALYSIS

There are several considerations related to initiating a referral process for the Strata Council:

- The authority of the Strata Council to comment on specific applications may be limited, consequently the LTC may not receive detailed or specific responses to individual applications.
- The strata has a review process for building proposals, initiated under the authority of the strata bylaw
- Building permit applications, which may be of most interest to the Strata Council, would not be included in any referral process, as these are regional district applications.
- Any rezoning or subdivision application would be made, or authorized, by the strata itself.
- Land Use Permits could be referred to the strata:

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- Development permits for a geotechnical DP are the common application type received from Sidney Island owners; as the requirement is to ensure safety through the provision of a geotechnical report, comments from the Strata Council would likely be limited and the LTC's discretion in turn is limited by the nature of the DPA.
 - There have been few, if any, Shoreline DPA applications, likely due to the existing 15 metre setback and prohibition on private docks.
 - Temporary Use Permits: although no applications have been submitted to date, this could change in the future if temporary recreational vehicle occupancy results in applications for TUPs.
 - Development Variance Permits: there have been a limited number of applications (e.g. setbacks from limited common property) over the years, likely as the relatively large lots preclude the need for variances.
- Timing for referrals:
 - Referring the application forms to the Strata Council would not be the best approach, as professional reports are often submitted after the application is made, and substantive elements of an application can change before a permit is drafted.
 - the optimal timing would be to send a draft permit to the Strata Council; for DVPs and TUPs this would coincide with the notification period for neighbours.
 - In order to provide a sufficient time for the Strata Council to receive, review and potentially comment, it would likely be necessary to delay applications.

Rationale for Recommendation

In summary, the Strata Council would likely benefit from receiving referrals of land use permits, however the LTC may only receive comments or responses in limited instances.

ALTERNATIVES

1. Request further information

The LTC may request that staff follow up further with the Strata Council.

2. Receive for information

The LTC may receive the report for information

NEXT STEPS

Describe the next steps in the process, if applicable.

Submitted By:	Robert Kojima, Regional Planning Manager	January 18, 2022
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DATE OF MEETING: January 27, 2022
TO: North Pender Island Local Trust Committee
FROM: Warren Dingman Bylaw Compliance & Enforcement Manager
SUBJECT: Policy options for Temporary Housing Enforcement

RECOMMENDATION

1. That the North Pender Island Local Trust Committee rescind resolution NP-2021-103 creating a moratorium on bylaw enforcement related to housing, and direct staff to follow existing enforcement policies to achieve voluntary compliance in regards to any non-permitted dwellings or unlawful uses.

REPORT SUMMARY

The current number of files for unlawful dwellings is limited for North Pender Island, and there are few enforcement files that deal directly with the use of travel trailers for full-time residential use or housing. Any issues with the current non-permitted uses can be resolved by the negotiation of voluntary compliance agreements, which can give property owner one year to comply with the regulations.

BACKGROUND

At the October 28, 2021 meeting, the North Pender Island Local Trust Committee (NPILTC) adopted the following resolution:

NP-2021-103

It was Moved and Seconded,

that the North Pender Island Local Trust Committee create a moratorium on bylaw enforcement related to housing and request that the Bylaw Enforcement Manager create a report about the extent of the problem.

CARRIED

There are a total of 21 compliance and enforcement files open regarding unlawful dwellings or density for the North Pender Island Local Trust Area. The majority of these files are on Sidney Island and they total 12. These files concern the use of travel trailers for vacation purposes and not for housing.

On North Pender Island, for the 9 open files, two concern the non-permitted use of accessory structures for dwellings, and 7 are related to the use of travel trailers. However, only two travel trailers are being used for housing. The others are being used, or were being used, as temporary vacation homes.

ANALYSIS

There are no reports available that document the total number of unlawful dwellings on North Pender Island; we only have the current list of open files available as a means to assess the current scope of housing issues on the island or if there is a reason for concerns in regards to housing availability. Bylaw staff do not have the resources to inspect all properties for unlawful dwellings, and the policy is to respond to complaints only.

The community attitude appears to be one of tolerance unless there are serious concerns over sewage, garbage or noise. To date, the majority of these issues have been addressed by educating the property owners on the Land Use Bylaw regulations and giving them time to comply.

POLICY/REGULATORY

Islands Trust Council Policy:

Current Trust Council policies direct bylaw staff to seek voluntary compliance in resolving complaints and the current policies work well. Those subject to complaint are provided with information and education on the Land Use Bylaw and its regulations, and through negotiated time to comply, the majority of files are resolved cooperatively and without the need for actual enforcement measures such as bylaw notices or legal action.

The current policy states the following:

Compliance is sought through a combination of education, mediation and enforcement techniques. Bylaw compliance is primarily sought through an attempt to achieve voluntary compliance. Voluntary compliance is indicated by a commitment to corrective action as soon as reasonably possible and the cessation of unlawful activity.

Official Community Plan:

There are no goals or policies regarding bylaw compliance and enforcement in the North Pender Island Official Community Plan.

Land Use Bylaw:

The North Pender Island Land Use Bylaw No. 103 (LUB) states the following in regards to the use of accessory structures:

3.4 Accessory Buildings

3.4.3 An accessory building or structure may be constructed or placed and occupied as a temporary dwelling prior to the construction of a principal building or structure on the same lot provided that a building permit has been issued for the principal building or structure and the water supply and sewage disposal facilities for the principal building or structure have been installed.

It has been a reasonable and effective regulation in dealing with any concerns about unlawful dwellings and obtaining compliance as the majority of property owners follow through with obtaining a building permit, and install septic systems. Bylaw staff have treated temporary occupancy of recreational vehicles or travel trailers where there is a valid building permit in a similar manner to occupancy of an accessory building.

Issues and Opportunities

If the NPILTC wishes to adopt a policy to defer enforcement on the temporary or permanent occupancy of travel trailers or recreational vehicles, consideration should be given as to whether or not this would be an appropriate option for Magic Lake Estates or the Trincomali area. It may be a preferable option for larger lots zoned Rural, but it may not be the best option for smaller lots zoned Rural Residential. There also needs to be consideration of the appropriateness of permitting the use of trailers and vehicles (RVs) which are not designed or built to be occupied as full-time residences.

The Mayne LUB permits the use of travel trailers and recreational vehicles as fulltime residences, equivalent to a dwelling or cottage. Although property owners are required to connect the units to septic systems, they cannot obtain the required permits from the Capital Regional District as they do not issue such permits for vehicles.

Islands Trust and CRD staff have had longstanding concerns with the Mayne provisions that permit occupancy of RVs year round: RVs are not designed for year-round living, cannot be permitted or inspected by Building Inspection, and modifications, heating, and electrical and sewage connections are all unregulated.

Rationale for Recommendation

The current policy of giving property owners time to comply with the regulations in the Land Use Bylaw have been effective in gaining compliance and resolving the concerns of those in the community in regards to non-permitted dwellings or housing. There are a small number of files directly related to the full-time residential use of recreational vehicles for dwellings, and there is no need identified to change current enforcement policies.

ALTERNATIVES

The following alternative resolution is available to the NPILTC but it is not recommended:

- 1. That the North Pender Island Local Trust Committee direct bylaw staff to defer enforcement on unlawful dwellings except in the following circumstances:**
 - a. There are concerns regarding health and safety;**
 - b. There are concerns that sewage is not being disposed of in an approved septic or sewage disposal system; or that septic or sewage disposal systems are beings used in excess of capacity or ability as a result of unlawful dwellings;**
 - c. There are concerns of possible contamination of wells or other drinking water sources;**
 - d. Unlawful dwellings are in environmentally sensitive areas;**
 - e. There are non-permitted campgrounds; and**
 - f. That the North Pender Island Local Trust Committee may give direction to resume enforcement on activities on any property that poses risk to the health and safety of the neighbouring residents or the residents on the property subject to enforcement.**

Submitted By:	Warren Dingman, Bylaw Compliance & Enforcement Manager	January 19, 2022
Concurrence:	Robert Kojima, Regional Planning Manager	January 19, 2022